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Message and Despatches of Privy Council relating to Treaty of Washington.

I. B. Taylor, Ottawa.

1872.

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233

MESSAGE,

DESPATCHES, AND MINUTES

OF THE

PRIVY COUNCIL,

RELATING TO THE

TREATY OF WASHINGTON.

PRINTED BY ORDER OF PARLIAMENT.

OTTAWA:
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[LISGAR.]

The Governor-General transmits, for the information of the SENATE and the HOUSE OF COMMONS, certain Despatches and Minutes of the Privy Council having reference to the Treaty of Washington.

GOVERNMENT HOUSE,
OTTAWA, April 18, 1872.

CORRESPONDENCE RESPECTING THE APPOINTMENT OF A JOINT HIGH COMMISSION TO CONSIDER THE VARIOUS QUESTIONS AFFECTING THE RELATIONS BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA.

No. 1.

Sir E. Thornton to Earl Granville.—(Received February 19.)

(Extract.) WASHINGTON, February 6, 1871.

I have the honor to inclose copies of a correspondence which has passed between Mr. Fish and myself relative to the appointment of a Joint High Commission to sit at Washington for the purpose of considering the questions which have lately arisen relative to the Canadian Fisheries, and any others which affect the relations of the United States towards Her Majesty's possessions in North America,—the so-called "Alabama" claims,—and any other claims of British subjects or citizens of the United States arising out of acts committed during the late Civil War in this country.

Inclosure 1 in No. 1.

Sir E. Thornton to Mr. Fish.

WASHINGTON, January 26, 1871.

SIR,—In compliance with an instruction which I have received from Earl Granville, I have the honor to state that Her Majesty's Government deem it of importance to the good relations which they are ever anxious should subsist and be strengthened between the United States and Great Britain, that a friendly and complete understanding should be come to between the two Governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively, with reference to the fisheries on the coast of Her Majesty's Possessions in North America, and as to any other questions *between them* which affect the relations of the United States towards those Possessions.

As the consideration of these matters would, however, involve investigations of a somewhat complicated nature, and as it is very desirable that they should be thoroughly examined, I am directed by Lord Granville to propose to the Government of the United States the appointment of a Joint High Commission, which shall be composed of members to be named by each Government, shall hold its Session at Washington, and shall treat of and discuss the mode of settling the different questions which have arisen out of the Fisheries, as well as all those which affect the relations of the United States towards Her Majesty's Possessions in North America.

I am confident that this proposal will be met by your Government in the same cordial spirit of friendship which has induced Her Majesty's Government to tender it, and I cannot doubt that in that case the result will not fail to contribute to the maintenance of the good relations between the two countries which I am convinced the Government of the United States, as well as that of Her Majesty, equally have at heart

I have, &c.,
(Signed) EDWD. THORNTON.

Inclosure 2 in No. 1.

Mr. Fish to Sir E. Thornton.

DEPARTMENT OF STATE, WASHINGTON,
January 30, 1871.

SIR,—Ihave the honor to acknowledge the receipt of your note of the 26th January, in which you inform me, in compliance with instructions from Earl Granville, that Her Majesty's Government deem it of importance to the good relations which they are ever anxious should subsist and be strengthened between the United States and Great Britain, that a friendly and complete understanding should be come to between the two Governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively, with reference to the Fisheries on the coasts of Her Majesty's Possessions in North America, and as to any other questions between them which affect the relations of the United States towards those Possessions; and farther, that as the consideration of these questions would involve investigations of a somewhat complicated nature; and as it is very desirable that they should be thoroughly examined, you are directed by Lord Granville to propose to the Government of the United States the appointment of a Joint High Commission, which shall be composed of members to be named by each Government, shall hold its sessions at Washington, and shall treat of and discuss the mode of settling the different questions which have arisen out of the Fisheries, as well as all those which affect the relations of the United States towards Her Majesty's Possessions in North America.

I have laid your note before the President, who instructs me to say that he shares with Her Majesty's Government the appreciation of the importance of a friendly and complete understanding between the two Governments with reference to the subjects specially suggested for the consideration of the proposed Joint High Commission, and he fully recognizes the friendly spirit which has prompted the proposal.

The President is, however, of the opinion that without the adjustment of a class of questions not alluded to in your note, the proposed High Commission would fail to establish the permanent relations, and the sincere, substantial, and lasting friendship between the two Governments, which, in common with Her Majesty's Government, he desires should prevail.

He thinks that the removal of the differences which arose during the rebellion in the United States, and which have existed since then, growing out of the acts committed by the several vessels which have given rise to the claims generally known as the "Alabama Claims," will also be essential to the restoration of cordial and amicable relations between the two Governments.

He directs me to say that, should Her Majesty's Government accept this view of this matter, and assent that this subject also may be treated of by the proposed High Commission, and may thus be put in the way of a final and amicable settlement, this Government will, with much pleasure, appoint High Commissioners on the part of the United States to meet those who may be appointed on behalf of Her Majesty's Government, and will spare no efforts to secure, at the earliest practicable moment, a just and amicable arrangement of all the questions which now, unfortunately, stand in the way of an entire and abiding friendship between ths two nations.

I have, &c.,

(Signed) HAMILTON FISH.

Inclosure 3 in No. 1.

Sir E. Thornton to Mr. Fish.

WASHINGTON, February 1. 1871.

SIR,—I have the honor to acknowledge the receipt of your note of the 30th ultimo, and to offer you my sincere and cordial thanks for the friendly and conciliatory spirit which pervades it.

With reference to that part of it in which you state that the President thinks that the removal of the differences which arose during the rebellion in the United States, and which have existed since then, growing out of the acts committed by the several vessels which have given rise to the claims generally known as the "Alabama" claims, will also be essential to the restoration of cordial and amicable relations between the two Governments, I have the honour to inform you that I have submitted to Earl Granville the opinion thus expressed by the President of the United States, the friendliness of which I beg you to believe I fully appreciate.

I am now authorized by his Lordship to state that it would give Her Majesty's Government great satisfaction if the claims commonly known by the name of the "Alabama" claims were submitted to the consideration of the same High Commission by which Her Majesty's Government have proposed that the questions relating to the British Possessions in North America should be discussed, provided that all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the recent civil war in this country, are similarly referred to the same Commission.

The expressions made use of in the name of the President in your above-mentioned note with regard to the "Alabama" claims convince me that the Government of the United States will consider it of importance that these causes of dispute between the two countries should also and at the same time be done away with, and that you will enable me to convey to my Government the assent of the President to the addition which they thus propose to the duties of the High Commission, and which cannot fail to make it more certain that its labours will lead to the removal of all differences between the two countries.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 4 in No. 1.

Mr. Fish to Sir E. Thornton.

DEPARTMENT OF STATE,

WASHINGTON, February 3, 1871.

SIR,—I have the honour to acknowledge the receipt of your note of the 1st instant, in which you inform me that you are authorized by Earl Granville to state that it would give Her Majesty's Government great satisfaction if the claims commonly known by the name of the "Alabama" claims were submitted to the consideration of the same High Commission by which Her Majesty's Government have proposed that the questions relating to the British Possessions in North America should be discussed, provided that all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the recent civil war in this country, are similarly referred to the same Commission.

I have laid your note before the President, and he has directed me to express the satisfaction with which he has received the intelligence that Earl Granville has authorized you to state that Her Majesty's Government has accepted the views of this Government as to the disposition to be made of the so-called "Alabama" claims.

He also directs me to say, with reference to the remainder of your note, that if there be other and further claims of British subjects or of American citizens growing out of acts committed during the recent civil war in this country, he assents to the propriety of their reference to the same High Commission; but he suggests that the High Commissioners shall consider only such claims of this description as may be presented by the Governments of the respective claimants at an early day, to be agreed upon by the Commissioners.

I have, &c.

(Signed) HAMILTON FISH.

No. 2.

Earl Granville to Sir E. Thornton.

FOREIGN OFFICE,

February 23, 1871.

SIR,—I received on the 19th instant your despatch of the 6th instant, inclosing copies of letters exchanged between yourself and the Secretary of State of the United States, relative to the appointment of a Joint High Commission to sit at Washington for the purpose of considering pending questions between this country and the United States.

Her Majesty's Government, having been regularly informed by you by telegraph of the satisfactory character of this correspondence, did not hesitate at once to send out the British Members of the Commission, and Lord de Grey and Mr. Bernard accordingly embarked for New York on the 11th, and Sir Stafford Northcote on the 18th instant; and it now only remains for me to acquaint you formally that Her Majesty's Government entirely approve of the tenor of your letters to Mr. Fish.

I am, &c.

(Signed) GRANVILLE.

No. 3.

Full Power to the Earl de Grey and Ripon, Sir Stafford Henry Northcote, Sir Edward Thornton, Sir John Alexander Macdonald, and Montague Bernard, Esq., to negotiate with Plenipotentiaries of the United States.

VICTORIA R.

VICTORIA, by the grace of God, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, &c., &c., &c. To all and singular to whom these Presents shall come, Greeting. Whereas, for the purpose of discussing in a friendly spirit with Commissioners to be appointed on the part of Our Good Friends the United States of America, the various questions on which differences have arisen between Us and Our said Good Friends, and of treating for an Agreement as to the mode of their amicable settlement, We have judged it expedient to invest fit persons with full power to conduct on Our part the discussions in this behalf: Know ye, therefore, that We, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of Our right trusty and right well-beloved Cousin and Councillor George Frederick Samuel, Earl de Grey and Ripon, Viscount Goderich, a Peer of Our United Kingdom, President of Our Most Honorable Privy Council, Knight of Our Most Noble Order of the Garter, &c., &c., of Our right trusty and well-beloved Councillor Sir Stafford Henry Northcote, Baronet, a Member of Parliament, Companion of Our Most Honorable Order of the Bath, &c., &c.; of Our trusty and well-beloved Sir Edward Thornton, Knight Commander of Our Most Honorable Order of the Bath, Our Envoy Extraordinary and Minister Plenipotentiary to Our Good Friends the United States of America, &c., &c.; of Our trusty and well-beloved Sir John Alexander Macdonald, Knight Commander of Our Most Honourable Order of the Bath, a Member of Our Privy Council for Canada, and Minister of Justice and Attorney-General in Our Dominion of Canada, &c., &c.; and of Our trusty and well-beloved Montague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford:—have named, made, constituted, and appointed, as We do by these presents name, make, constitute, and appoint them Our undoubted High Commissioners, Procurators, and Plenipotentiaries: Giving to them, or to any three or more of them, all manner of power and authority to treat, adjust, and conclude with such Minister or Ministers as may be vested with similar power and authority on the part of Our Good Friends the United States of America, any Treaties, Conventions, or Agreements that may tend to the attainment of the above-mentioned end, and to sign for Us and in Our name everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work in as ample manner and form, and with equal force and efficacy, as We Ourselves could do if personally present: Engaging and promising upon Our Royal Word, that whatever things shall be so transacted and concluded by Our said High Commissioners, Procurators, and Plenipotentiaries shall be agreed to, acknowledged, and accepted by Us in the fullest manner, and that We will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in Our power.

In witness whereof We have caused the Great Seal of Our United Kingdom of Great Britain and Ireland to be affixed to these Presents, which We have signed with Our Royal Hand.

Given at Our Court at Windsor Castle, the sixteenth day of February, in the year of Our Lord one thousand eight hundred and seventy-one, and in the thirty-fourth year of Our reign.

The Earl of Kimberley to Lord Lisgar.

(Copy—Canada.)

DOWNING STREET,

16th February, 1871.

MY LORD,—You have already been informed by telegram of the views of Her Majesty's Government upon the Fishery Questions, but I think it will be convenient, with reference to the pending negotiations, that a somewhat fuller statement of those views should now be placed on record.

It would not be possible for Her Majesty's Government to pledge themselves to any foregone conclusion upon any particular point connected with these negotiations, but they have anxiously considered the questions which concern Canada; and they feel confident that the Canadian Government, will agree with them that a satisfactory termination of the difficulties which have arisen with the United States, can only be attained by taking as broad and liberal a view as is consistent with the just rights and real interests of the Dominion.

As at present advised, Her Majesty's Government are of opinion that the right of Canada to exclude Americans from fishing in the waters within the limits of three marine miles of the coast, is beyond dispute, and can only be ceded for an adequate consideration.

Should this consideration take the form of a money payment, it appears to Her Majesty's Government, that such an arrangement would be more likely to work well than if any conditions were annexed to the exercise of the privilege of fishing within the Canadian waters.

The presence of a considerable number of cruisers would always be necessary to secure the performance of such conditions and the enforcement of penalties for the non-observance of them would be certain to lead to disputes with the United States.

With respect to the question, what is a Bay or Creek, within the meaning of the first Article of the Treaty of 1818, Her Majesty's Government adhere to the interpretation which they have hitherto maintained of that Article, but they consider that the difference which has arisen with the United States on this point, might be a fit subject for compromise.

The exclusion of American fishermen from resorting to Canadian Ports, "except for "the purpose of shelter, and of repairing damages therein, of purchasing wood and "of obtaining water," might be warranted by the letter of the Treaty of 1818, and by the terms of the Imperial Act, 59, Geo. III., chap. 38, but Her Majesty's Government feel bound to state that it seems to them an extreme measure—inconsistent with the general policy of the Empire, and they are disposed to concede this point to the United States Government, under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British Subjects.

In conclusion I have to state that Her Majesty fully appreciated the loyal and prompt manner in which the Canadian Government have assented to the appointment of the Commission which is about to sit at Washington.

The high character and recognized ability of the British Commissioners afford ample security that the interests of Canada will be carefully protected during the forthcoming negotiations.

I have, &c.,

(Signed) KIMBERLEY.

The Earl of Kimberley to Lord Lisgar.

(Copy—Canada—No. 374.)

DOWNING STREET,

17th March, 1871.

MY LORD,—In answer to your telegram received on the 10th instant, stating that in the opinion of your Government, the Canadian Fisheries cannot be sold without the consent of the Dominion, I have already informed your Lordship by Telegraph that Her Majesty's Government never had any intention of advising Her Majesty to part with those fisheries without such consent.

When the Reciprocity Treaty was concluded, the Acts of the Nova Scotian and New Brunswick Legislatures relating to the Fisheries were suspended by Acts of those Legislatures, and the Fishery rights of Canada are now under the protection of a Canadian Act of Parliament, the repeal of which would be necessary in case of the cession of those rights to any Foreign Power.

I think it right however to add that the responsibility of determining what is the true construction of a Treaty, made by Her Majesty with any foreign power, must remain with Her Majesty's Government, and that the degree to which this Country would make itself a party to the strict enforcement of Treaty Rights may depend not only on the literal construction of the Treaty, but on the moderation and reasonableness with which those rights are asserted.

I have, &c.,

(Signed) KIMBERLEY.

Governor General
The Right Honorable Lord Lisgar,
G. C. B., G. C. M. G., &c., &c., &c.

(Copy—Canada—No. 444.)

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET,

17th June, 1871.

MY LORD,—I have the honor to enclose, herewith, copies of the Treaty signed at Washington, on May 8th, by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States, and of the Instructions to Her Majesty's High Commissioners and Protocols of the Conferences held by the Commission. The Dominion is, from its geographical position as the immediate neighbour of the United States, so peculiarly interested in the maintenance of cordial relations between that Republic and the British Empire, that it must be a source of satisfaction to the Canadian Government, that Her Majesty has been able to conclude a Treaty for the amicable settlement of differences which might have seriously endangered the good understanding between the two countries.

Moreover, the Rules laid down in Article VI, as to the international duties of neutral governments are of special importance to the Dominion which carries on such an extensive and increasing maritime commerce, and possesses such a considerable merchant navy.

But independently of the advantages which Canada must derive from the removal of the causes of difference with the United States, arising out of occurrences during the civil war, Her Majesty's Government believe that the settlement which has been arrived

at of the questions directly affecting British North America, cannot fail to be beneficial to the Dominion. I need not refer to the well known history of the Fishery question, further than to observe that ever since the termination, by the British Government in consequence of the war of 1812, of the liberty enjoyed under the Treaty of 1783, by American citizens of fishing in the territorial waters of the British Colonies, and the renunciation by the United States, in the Treaty of 1818, of all claim to that liberty, this question has in different forms been the subject of controversy with the United States. Her Majesty's Government have always contended for the rights of the Colonies, and they have employed the British Naval forces in the protection of the Colonial fisheries; but they could not overlook the angry feelings to which this controversy has given rise, and the constant risk that in the enforcement of the exclusion of American fishermen from the Colonial waters a collision might take place which might lead to the most serious consequences, and they would have been wanting in their duty, if they had not availed themselves of the opportunity presented by the late negotiation to remove a cause of perpetual irritation and danger to the relations of this country and the Dominion with the United States.

The Canadian Government itself took the initiative in suggesting that a Joint British and American Commission should be appointed, with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818, but it was certain that however desirable it might be, in default of any complete settlement, to appoint such a Commission, the causes of the difficulty lay deeper than any question of interpretation, and the mere discussion of such points as the correct definition of bays could not lead to a really friendly agreement with the United States. It was necessary, therefore, to endeavour to find an equivalent which the United States might be willing to give in return for the fishery privileges, and which Great Britain, having regard both to Imperial and Colonial interests, could properly accept. Her Majesty's Government are well aware that the arrangement which would have been most agreeable to Canada was the conclusion of a Treaty similar to the Reciprocity Treaty of 1854, and a proposal to this effect was pressed upon the United States Commissioners, as you will find in the 36th Protocol of the Conferences. This proposal was, however, declined, the United States Commissioners stating "that they could hold out no hope that the Congress of the United States would "give its consent to such a tariff arrangement as was proposed, or to any extended plan "of reciprocal free admission of the products of the two countries." The United States Commissioners did indeed propose that coal, salt and fish, should be reciprocally admitted free, and lumber after the 1st of July, 1874; but it is evident that looked at as a tariff arrangement this was a most inadequate offer, as will be seen at once when it is compared with the long list of articles admitted free under the Reciprocity Treaty. Moreover, it is obvious from the frank avowal of the United States Commissioners, that they only made this offer because one branch of Congress had recently more than once expressed itself in favor of the abolition of duties on coal and salt, and because Congress had partially removed the duty from lumber, and the tendency of legislation in the United States was towards the reduction of taxation and of duties, so that to have ceded the Fishery rights in return for these concessions would have been to exchange them for commercial arrangements, which there is reason to believe may before long be made without any such cession, to the mutual advantage of both the Dominion and the United States; and Her Majesty's Government are bound to add that whilst in deference to the strong wishes of the Dominion Government they used their best efforts to obtain a renewal in principle of the Reciprocity Treaty, they are convinced that the establishment of free trade between the Dominion and the United States is not likely to be promoted by making admission to the fisheries dependent upon the conclusion of such a Treaty; and that the repeal by Congress of duties upon Canadian produce on the ground that a Protective Tariff is injurious to the country which imposes it, would place the commercial relations of the two countries on a far more secure and lasting basis than the stipulations of a Convention framed upon a system of reciprocity. Looking, therefore, to all the circumstances, Her Majesty's Government found it their duty to deal separately with the

Fisheries, and to endeavour to find some other equivalent; and the reciprocal concession of free fishery with free import of fish and fish oil, together with the payment of such a sum of money as may fairly represent the excess of value of the Colonial over the American concession, seems to them to be an equitable solution of the difficulty. It is perfectly true that the right of fishery on the United States coasts, conceded under Article XIX, is far less valuable than the right of fishery in Colonial waters, conceded under Article XVIII, to the United States, but on the other hand, it cannot be denied that it is most important to the Colonial fishermen to obtain free access to the American market for their fish and for fish oil, and the balance of advantage on the side of the United States will be duly redressed by the Arbitrators under Article XXII. In some respects a direct money payment is perhaps a more distinct recognition of the rights of the Colonies than a tariff concession, and there does not seem to be any difference in principle between the admission of American fishermen for a term of years in consideration of the payment of a sum of money in gross, and their admission under the system of Licenses, calculated at so many dollars per ton, which was adopted by the Colonial Government for several years after the termination of the Reciprocity Treaty. In the latter case, it must be observed, the use of the Fisheries was granted without any tarift, concession whatever on the part of the United States, even as to the importation of fish.

Canada could not reasonably expect that this country should, for an indefinite period, incur the constant risk of serious misunderstanding with the United States; imperilling, perhaps, the peace of the whole Empire, in order to endeavour to force the American Government to change its commercial policy; and Her Majesty's Government are confident that, when the Treaty is considered as a whole, the Canadian people will see that their interests have been carefully borne in mind, and that the advantages, which they will derive from its provisions, are commensurate with the concessions which they are called upon to make. There cannot be a question as to the great importance to Canada of the right to convey goods in bond through the United States, which has been secured to her by Article XXIX; and the free navigation of Lake Michigan, under Article XXVIII; and the power of transhipping goods, under Article XXX, are valuable privileges which must not be overlooked in forming an estimate of the advantages which Canada will obtain. Her Majesty's Government have no doubt that the Canadian Government will readily secure to the citizens of the United States, in accordance with Article XXVII, the use of the Canadian Canals, as, by the liberal policy of the Dominion, those Canals are already opened to them on equal terms with British subjects; and they would urge upon the Dominion Parliament and the Legislature of New Brunswick, that it will be most advisable to make the arrangement as to duties on lumber floated down the St. John River, upon which the execution of Article XXX as to the transhipment of goods, is made contingent.

The freedom to navigate the St. Lawrence, which is assured to the United States by Article XXVI, has long existed in fact, and its recognition by Treaty cannot be prejudicial to the Dominion, which moreover, obtains in return, the free use of certain rivers on the Pacific side of the Continent.

I must not omit to notice that, by Article XXXIV., the dispute as to the Island of St. Juan, is to be submitted to arbitration; and provision has thus happily been made for the amicable termination of a long-standing and difficult controversy at a time when, in consequence of the union of British Columbia with the Dominion, this boundary question has become matter of interest to the whole Confederation of British Provinces.

I have thus gone through those parts of the Treaty which immediately touch the Dominion; but a question of much moment remains as to the course which should be taken during the present fishing season, pending the enactment by the respective Legislatures of the Laws necessary to bring the Fishery Articles into operation.

I find that on the conclusion of the Reciprocity Treaty, in June, 1854, and previous to its ratification, the then American Secretary of State (Mr. Marcy) expressed the hope of his Government that American Fishermen would not be molested if they should at

once attempt to use the privileges granted by that Treaty. A despatch was therefore addressed to the Governor of the North American Colonies, recommending that the wish of the United States Government should be acceded to, and that the American fishermen should be immediately admitted to the Colonial fisheries. The result was that the various Colonial Governments at once admitted the American fishermen to the fisheries, although the Legislative Acts necessary to give effect to the Treaty were not passed till late in the autumn. It is evidently most desirable that a similar course should be pursued on the present occasion; and you will perceive from the notes which have passed between Sir E. Thornton and Mr. Fish, copies of which I enclose, that the United States Government have made an application similar to that which they made in 1854; and that Her Majesty's Government have engaged to recommend to the Colonial Governments that it should be acceded to. Her Majesty's Government are of course aware that the Colonial Governments have no power to set aside the fishery statutes by their own authority; but it is entirely within their power to take no active steps to enforce those statutes and to suspend the instructions to the Colonial Cruisers to exclude American citizens from the fisheries, just as it is in the power of Her Majesty's Government to suspend the action of Her Majesty's Cruisers, although the Imperial Fishery Statute is still in force.

Her Majesty's Government have no desire whatever to attempt to interfere with the entire right of the Colonial Legislatures to refuse to pass the acts necessary to give effect to the Treaty, though they would deeply deplore that a course which they believe would be most impolitic should be taken; but, on the other hand, they have too much confidence in the wisdom of those free Assemblies, to anticipate any such result; and they are confident that the Canadian Government would be as desirous as Her Majesty's Government that no untoward collision should occur during the present season which might prejudice the fair consideration of the Treaty, both by the American Congress and the Colonial Parliaments; and that, on a full consideration of the circumstances, they will see that the responsibility of incurring the risk of such a collision would be far heavier than that of removing, so far as they have the power, the obstacles to the provisional enjoyment by American citizens of the privileges which it is intended by the Treaty to secure to them for a longer time.

I cannot conclude this Despatch without expressing the gratification which it has given Her Majesty's Government to have had the valuable assistance of Sir J. Macdonald, in the negotiation of this Treaty. Whatever view may be taken in Canada of the merits of the Treaty, it must be an unqualified cause of satisfaction to the Canadians to know that they were represented by a Statesman holding so distinguished a position in the Canadian Government, and so well able, from his knowledge and experience, to put forward with the greatest force and authority the arguments best suited to promote the claims and interests of the Dominion.

I have, &c.,

(Signed) KIMBERLEY.

Governor-General
The Right-Honorable Lord Lisgar,
G.C.B, &c., &c., &c.

INSTRUCTIONS TO HER MAJESTY'S HIGH COMMISSIONERS, AND PROTOCOLS OF CONFERENCES HELD AT WASHINGTON BETWEEN FEBRUARY 27 AND MAY 6, 1871.

No. 1.

Earl Granville to Her Majesty's High Commissioners.

FOREIGN OFFICE, February, 9, 1871.

MY LORD AND GENTLEMEN,—The Queen having been graciously pleased to appoint you to be Her Majesty's High Commisioners to proceed to Washington for the purpose of discussing, in a friendly spirit, with Commissioners to be appointed by the Government of the United States, the various questions on which differences have arisen between Great Britain and that country, and of treating for an agreement as to the mode of their amicable settlement, I inclose the necessary full powers, and have the honour to convey to you the following instructions for your guidance.

It is the earnest desire of Her Majesty's Government that the important negotiation with which you are entrusted should be conducted in a mutually conciliatory disposition, and with unreserved frankness in your communications with the High Commissioners or Members of the Government of the United States with whom you may be placed in communication, and they believe that this object cannot be better attained than by leaving you full discretion as to the manner in which the subjects which may engage your attention should be discussed.

The principal subjects will probably be :—

1. The Fisheries.
2. The free navigation of the River St. Lawrence and privilege of passage through the Canadian Canals.
3. The transit of goods through Maine, and lumber trade down the River St. John.
4. The Manitoba boundary.
5. The claims on account of the "Alabama," "Shenandoah," and certain other cruizers of the so-styled Confederate States.
6. The San Juan water boundary.
7. The claims of British subjects arising out of the Civil War.
8. The claims of the people of Canada on account of the Fenian raids.
9. The revision of the rules of Maritime Neutrality.

Copies of all the correspondence which has been presented to Parliament respecting the questions will be forwarded for your use.

1. *The Fisheries.*

On the termination of the Reciprocity Treaty of the 5th of June, 1854, by the United States' Government, the discussions respecting the rights of American fishermen under Article I of the Convention of the 20th of October, 1818, which had been set at rest by the Reciprocity Treaty, were revived, and, although temporary measures were taken to avoid pressing with severity upon American fishermen by the adoption of a system of licenses, it has been found impracticable to continue that system indefinitely; and, on its withdrawal, much excitement has been occasioned among the coast population of the Eastern States of the Union by the capture of boats engaged in illegal fishing, contrary to the Convention of 1818.

The correspondence will put you in possession of the facts of the several captures,

and enable you to judge, and explain if necessary, how far the pretensions of the American fishermen are exaggerated, and the leniency with which they have been treated under the directions of Her Majesty's Government and of the Government of the Dominion by the officers charged with the protection of the British Fisheries.

Irrespective, however, of the captures and confiscations of boats during the recent fishing season, there are. and have been for many years, differences of interpretation put upon the Convention of 1818 by the respective Governments, which might, at any time, rise into serious importance.

The two chief questions are : As to whether the expression "three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions" should be taken to mean a limit of three miles from the coast line or a limit of three miles from a line drawn from headland to headland ; and whether the proviso that "the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever," is intended to exclude Americain vessels from coming inshore to traffic, tranship fish, purchase stores, hire seamen, &c.

Her Majesty's Government would be glad to learn that you were able to arrive at a conclusive understanding with the Commissioners of the United States upon the disputed interpretation of the Convention of 1818 ; but they fear that you will find it expedient that a settlement should be arrived at by some other means, in which case they will be prepared for the whole question of the relations between the United States and the British Possessions in North America, as regards the Fisheries, being referred for consideration and inquiry to an International Commission, cn which two Commissioners to be hereafter appointed, in consultation with the Government of the Dominion, should be the British Representatives.

Should the Government of the United States concur in this, it would be advisable that no time should be lost in appointing Commissioners on their side, and in the Commission commencing its labours ; and, as it is scarcely probable that the Commissioners will be able to report, and a Treaty be framed, before the commencement of the next fishing season, it would be also desirable that you should agree upon some means, by license or otherwise, by which disputes may be avoided in the meanwhile.

2. Free Navigation of the River St. Lawrence, and Privilege of Passage through the Canadian Canals.

The President of the United States, in his Message at the opening of Congress in December last, referred to the claim of free navigation of the River St. Lawrence as being an occasion of difference between the two countries.

The IVth Article of the Reciprocity Treaty provided that the citizens and inhabitants of the United States should be allowed to navigate the River St. Lawrence and the canals of Canada ; and Her Majesty's Government are not aware that any practical difficulty as to the free navigation of the St. Lawrence has arisen since the abrogation of that Treaty.

The exclusive right to the navigation of the St. Lawrence was maintained by this country throughout the discussions between the two Governments on the subject in 1824–27, and has been acknowledged as existing by this Article of the Reciprocity Treaty, under which the British Goverment retained the right of suspending the privilege.

Her Majesty's Government are, nevertheless, now willing to admit the principle of the navigation of the St. Lawrence being free to the citizens of the United States, subject to such tolls and regulations as may be imposed equally on British subjects.

This, however, cannot extend, except as a special privilege, to the passage through the canals constructed by Canadian enterprize through British territory, without which, from the strength of the current and dangerous rapids, the navigation of the St. Lawrence cannot be profitably conducted ; and the best course will probably be found to be to refer

these questions for detailed examination and mutual arrangement in relation to the transit of goods in bond through Maine, St. John River lumber trade, navigation of Lake Michigan, passage through the canals in United States' territory, and other similar matters, to the Commission to be appointed to consider and report upon the Fisheries.

4. *The Manitoba Boundary.*

The President has already intimated to Congress that he is of opinion that the survey of the boundary along the 49th parallel, which has only been carried out across the Rocky Mountains to the Gulf of Georgia, should be completed from the Lake of the Woods to the foot of the Rocky Mountains.

In this Her Majesty's Government concur, and will be ready to appoint a Commission for the purpose whenever the United States' Government think fit.

5. *The "Alabama," "Shenandoah," &c., Claims.*

Under this head are comprised the claims against Great Britain for damages sustained by the depredations of the "Alabama," "Shenandoah," and "Georgia," the vessels which were furnished on account of the so-styled Confederate States, and armed outside of British jurisdiction, and of the "Florida" which, though built in England, was armed and equipped in the port of Mobile.

The history of these vessels is so fully explained in the long correspondence which has taken place with regard to them, that it is unnecessary for me now to do more than point out that the claims which have been preferred on account of the "Alabama" stand on a different footing to those arising from the captures made by the other cruizers; in so far as the "Alabama" escaped from Liverpool after evidence had been supplied by the United States' Minister of the service for which she was intended.

Her Majesty's Government adhere to the principle of arbitration for the settlement of these claims, which was recognized and adopted in the Convention signed by Lord Clarendon and Mr. Reverdy Johnson as being, in their opinion, the most appropriate mode of settling this question; and, should arbitration be adopted, Her Majesty's Government would concur, if the United States' Government proposed it, in Jurists properly selected being made the Arbitrators instead of a Sovereign or State, as provided in the late Convention.

Although, however, Her Majesty's Government are of opinion that arbitration is the most appropriate mode of settlement, you are at liberty to transmit for their consideration any other proposal which may be suggested for determining and closing the question of these claims.

For the escape of the "Alabama" and consequent injury to the commerce of the United States, Her Majesty's Government authorize you to express their regret in such terms as would be agreeable to the Government of the United States and not inconsistent with the position hitherto maintained by Her Majesty's Government as to the international obligations of neutral nations.

6. *The San Juan Water Boundary.*

The line of water boundary under the 1st Article of the Treaty of June 15th 1846, upon which the British and American Commissioners appointed for its demarcation differed, was proposed by Lord Russell as a fit subject for arbitration in 1859; but, owing to the Civil War, the negotiations then instituted were not brought to a conclusion, and it was not until the 14th of January, 1869, that a Convention was signed between Lord Clarendon and Mr. Reverdy Johnson for referring the matter to an Arbitrator;

the President of the Swiss Confederation being selected at the instance of the Government of the United States.

Although this Convention was recommended by the Senate Committee of Foreign Affairs for ratification,* it has not been brought before the Senate, and the period within which its ratification should have taken place has now expired.

This delay has been accounted for by the United States' Government as having been occasioned by the delay, necessarily unavoidable, in carrying through the Imperial Parliament the measures required for enabling the Naturalization Treaty to be concluded; the two Treaties having been in the first instance included in the same negotiation under the Protocol of the 10th of November, 1868, upon which the Treaty of the 14th of January, 1869, was framed.

The Naturalization Treaty having been ratified some months ago, Her Majesty's Government trust that the Government of the United States will no longer hesitate to act upon the Water Boundary Treaty, which should in that case be appended to and form part of the General Treaty for the mode of settlement of all outstanding differences which you are empowered to sign.

Should, however, a form of arbitration admitting of more free discussion be preferred, Her Majesty's Government would assent to such a proposal.

7. *The Claims of British Subjects.*

Throughout the negotiations on the "Alabama," "Shenandoah," &c., claims, Her Majesty's Government have always urged that any satisfactory settlement of those claims must be accompanied by a simultaneous settlement of the claims of British subjects arising out of the civil war, and provision was made for this purpose in the Claims Convention.

Her Majesty's Government would expect that the Government of the United States would readily consent to all claims of British subjects against the United States, or of United States' citizens against Great Britain, being referred to a Mixed Commission, formed of one Commissioner from each country and an Umpire, as was done under the Convention of the 8th of February, 1853.

8. *The Claims of the People of Canada on account of the Fenian Raid.*

In connection with the claims of British subjects there is a claim on the part of the people of the Dominion of Canada for losses in life and property and expenditure, occasioned by the filibustering raids on the Canadian frontier, carried on from the territory of the United States in the years 1866 and 1870.

The Government of the Dominion having solicited Her Majesty's Government to bring this claim before the Government of the United States, were requested some time ago to prepare a statement to be submitted to that Government, but it has not yet been received.

In the meanwhile the accompanying account of the Fenian Brotherhood, which has been drawn up by Lord Tenterden, will supply you with full information as to the encouragement and support rendered in the United States to this and other Irish American revolutionary societies.

9. *Revision of Rules of Maritime Neutrality.*

It would be desirable to take this opportunity to consider whether it might not be the interest of both Great Britain and the United States to lay down certain rules of inter-

*See "North America," No., 1 (1869), page 44.

national comity in regard to the obligations of maritime neutrality, not only to be acknowledged for observance in their future relations, but to be recommended for adoption to the other Maritime Powers.

I have thus touched briefly upon the subjects likely principally to engage your attention, and have indicated the manner in which they may be possibly treated; but Her Majesty's Government wish you to understand that you are not thereby precluded from entertaining the consideration of other questions or making any suggestions you may think proper for their settlement.

Her Majesty's Government request, however, that if the mode of dealing with any particular matter which you may be disposed to agree to, should vary materially from the manner of settlement to which I have informed you Her Majesty's Government are prepared at once to assent, or, in case of any disagreement of importance occurring between yourselves and the American High Commissioners, you should at once report by telegraph and await further instructions.

I am, &c.,
(Signed,) GRANVILLE.

No. 2.

Earl Granville to Her Majesty's High Commissioners.

FOREIGN OFFICE, February 9th, 1871.

MY LORD AND GENTLEMEN,—With reference to my other despatch of this day's date, in which I have adverted to the revision of the rules of maritime neutrality as being one of the subjects which will probably be presented for your consideration, I have to state to you that the extent to which a neutral country may be hereafter held justly liable for the despatch, after notice, of a vessel under similar circumstances to those in the case of the "Alabama" cannot be precisely defined in the present stage of the controversy; but there are other points in which it may be convenient to you to be informed beforehand that this Government are willing to enter into an agrement.

These are :—

That no vessel employed in the military or naval service of any belligerent which shall have been equipped, fitted out, armed, or dispatched contrary to the neutrality of neutral State, should be admitted into any part of that State.

That prizes captured by such vessels, or otherwise captured in violation of the neutrality of any State, should, if brought within the jurisdiction of that State, be restored.

That in time of war, no vessel should be recognized as a ship of war, or received in any port of a neutral State as a ship of war, which has not been commissioned in some port in the actual occupation of the Government by whom her commission is issued.

The first of these Rules has been incorporated into the Foreign Enlistment Act, passed during the last year, and both the first and second were included in the Report of the Royal Commission for inquiring into the Neutrality Laws.

I am, &c.,
(Signed) GRANVILLE.

No. 3.

Earl Granville to the Lord High Commissioners.

FOREIGN OFFICE, February 9, 1871.

MY LORD AND GENTLEMEN,—I have to inform you that Lord Tenterden has been appointed Secretary to the High Commission, and will proceed to Washington accordingly.

I am, &c.,
(Signed) GRANVILLE.

No. 4.

PROTOCOLS OF CONFERENCES BETWEEN THE HIGH COMMISSIONERS ON THE PART OF GREAT BRITAIN AND THE HIGH COMMISSIONERRS ON THE PART OF THE UNITED STATES OF AMERICA.

1st. Protocol of Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.

WASHINGTON, February 27, 1871.

The High Commissioners having met, their full powers were respectively produced, which were found satisfactory, and copies thereof exchanged, as follows:—

"VICTORIA R.

"Victoria, by the grace of God, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, &c., &c., &c. To all and singular to whom these Presents shall come, Greeting:

"Whereas, for the purpose of discussing in a friendly spirit with Commissioners to be appointed on the part of Our Good Friends the United States of America, the various questions on which differences have arisen between Us and Our said Good Friends, and of treating for an Agreement as to the mode of their amicable settlement, We have judged it expedient to invest fit persons with full power to conduct on Our part the discussions in this behalf:

"Know ye, therefore, that We, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of Our right trusty and right well-beloved Cousin and Councillor George Frederick Samuel, Earl de Grey and Ripon, Viscount Goderich, a Peer of Our United Kingdom, President of Our Most Honourable Privy Council, Knight of Our Most Noble Order of the Garter, &c., &c.; of Our right trusty and well-beloved Councillor Sir Stafford Henry Northcote, Baronet, a Member of Parliament, Companion of Our Most Honourable Order of the Bath, &c., &c.; of Our trusty and well-beloved Sir Edward Thornton, Knight Commander of Our Most Honourable Order of the Bath, Our Envoy Extraordinary and Minister Plenipotentiary to Our Good Friends the United States of America, &c., &c.; of Our trusty and well-beloved Sir John Alexander Macdonald, Knight Commander of Our Most Honourable Order of the Bath, a Member of Our Privy Council for Canada, and Minister of Justice and Attorney-General in Our Dominion of Canada, &c., &c.; and of Our trusty and well-beloved Montague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford;—have named, made, constituted, and appointed, as We do by these presents name, make, constitute, and appoint them Our undoubted High Commissioners, Procurators, and Plenipotentiaries:

Giving to them, or to any three or more of them, all manner of power and authority to treat, adjust, and conclude with such Minister or Ministers as may be vested with similar power and authority on the part of Our Good Friends the United States of America, any Treaties, Conventions, or Agreements that may tend to the attainment of the above-mentioned end, and to sign for Us and in Our name everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work in as ample manner and form, and with equal force and efficacy, as We Ourselves could do if personally present: Engaging and promising upon Our Royal Word, that whatever things shall be so transacted ond concluded by Our said High Commissioners, Procurators, and Plenipotentiaries shall be agreed to, acknowledged, and accepted by Us in the fullest manner, and that We will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in Our power.

"In witness whereof We have caused the Great Seal of Our United Kingdom of Great Britain and Ireland to be affixed to these Presents, which We have signed with Our Royal Hand.

"Given at Our Court at Windsor Castle, the sixteenth day of February, in the year of Our Lord one thousand eight hundred and seventy.one, and in the thirty-fourth year of Our reign."

"Ulysses S. Grant, President of the United States of America, To all who shall see these presents, Greeting:

"Know ye that, reposing special trust and confidence in the integrity and ability of Hamilton Fish, Secretary of State; Robert C. Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain; Samuel Nelson, an Associate Justice of the Supreme Court of the United States; Ebenezer R. Hoar, of Massachusetts; and George H. Williams of Oregon; I have nominated and, by and with the advice and consent of the Senate, do appoint them jointly and severally, to be Commissioners on the part of the United States, in a Joint High Commission between the United States and Great Britain; hereby empowering them, jointly and severally, to meet the Commissioners appointed or to be appointed on behalf of Her Britannic Majesty, and with them to treat and discuss the mode of settlement of the different questions which shall come before the said Joint High Commission, and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

"In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

"Given under my hand at the city of Washington, this 10th day of February, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

[Seal.] (Signed) "U. S. GRANT.

"By the President:

(Signed) "HAMILTON FISH, Secretary of State."

It was proposed by the British High Commissioners that Mr. Fish, Secretary of State of the United States, should preside.

The United States Commissioners stated that, although appreciating the proposal, they did not consider it necessary that a President should be named.

The High Commissioners, on the suggestion of Mr. Fish, requested that Lord Tenterden, Secretary of the British High Commission, and Mr. Bancroft Davis,

Assistant-Secretary of State of the United States, acting as Secretary to the United States High Commission, to undertake the duties of Joint Protocolists.

The High Commissioners then agreed that the subjects for discussion should be those mentioned in the following correspondence which had taken place between the two Governments.

I. *Sir E. Thornton to Mr. Fish, January* 26, 1871.

[See "North America, No. 1 (1871)," Inclosure 1 in No. 1.]

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2. *Mr. Fish to Sir E. Thornton, January* 30, 1871.

[Ibid., Inclosure 2 in No. 1.]

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3. *Sir E. Thornton to Mr. Fish, February* 1, 1871.

[Ibid., Inclosure 3 in No. 1.]

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4. *Mr. Fish to Sir E. Thornton, February* 3, 1871.

[Ibid., Inclosure 4 in No. 1.]

The Commissioners further determined that the discussion might include such other matters as might be mutually agreed upon.

The meeting of the High Commissioners was then adjourned to the 4th of March.

(Signed,) TENTERDEN,
J. C. BANCROFT DAVIS.

2nd Protocol of Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.

WASHINGTON, March 4, 1871.

The High Commissioners having met, the Protocol of the Conference held on the 27th of February was read and confirmed.

At the commencement of the Conference the United States' High Commissioners called attention to the provision in the Constitution of the United States by which the advice and consent of the Senate is required for the ratification of any Treaty which may be signed under the authority of the President.

The British High Commissioners stated that they were acquainted with this provision.

The High Commissioners then proceeded with the consideration of the matters referred to them.

The Conference was adjourned to the 6th of March.

(Signed,) TENTERDEN.
J. C. BANCROFT DAVIS.

3rd Protocol of Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.

WASHINGTON, March 6, 1871.

The Commissioners having met, the Protocol of the Conference held on the 4th of March was read and confirmed.

The High Commissioners then proceeded with the consideration of the matters referred to them.

The Conference was adjourned to the 8th of March.

(Signed,) TENTERDEN.
J. C. BANCROFT DAVIS.

[The subsequent Protocols to No. XXXIV are to the same effect as Protocol No. III.]

35th Protocol of Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.

WASHINGTON, May 3, 1871.

The High Commissioners having met, the Protocol of the Conference held on the 25th of April was read and confirmed.

The High Commissioners then proceeded with the consideration of the matters referred to them.

The American Commissioners produced the following further full-power, under the seal of the United States, authorizing them to conclude and sign a Treaty :—

" Ulysses S. Grant, President of the United States of America, to all to whom these presents shall come,—GREETING :

" Know ye that whereas by my power bearing date the 10th day of February last, Hamilton Fish, Secretary of State, Robert C. Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain, Samuel Nelson, an Associate Justice of the Supreme Court of the United States, Ebenezer R. Hoar, of Massachusetts, and George H. Williams, of Oregon, were authorized to meet the Commissioners appointed, or to be appointed, on behalf of Her Britannic Majesty, and with them to treat and discuss the mode of settlement of the different questions which should come before them ;

" And whereas that meeting and discussion have taken place, and the said mode of settlement has been agreed upon ;

" Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby appoint the said Hamilton Fish, Robert C. Schenck, Samuel Nelson, Ebenezer R. Hoar, and George H. Williams, jointly and severally, Plenipotentiaries for and in behalf of the United States, and do authorize them, and any or either of them, to conclude and sign any Treaty or Treaties touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate, if such advice and consent be given.

" In witness whereof I have caused the seal of the United States to be hereunto affixed.

" Given under my hand at the City of Washington, the second day of May, in the year of Our Lord One thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

(Signed,) " U. S. GRANT.

" By the President :

(Signed,) " HAMILTON FISH, *Secretary of State.*"

This full-power was examined by the British Commissioners, and found satisfactory.

The Joint High Commissioners determined that they would embody in a Protocol a statement containing an account of the negotiations upon the various subjects included in the Treaty, and they instructed the Joint Protocolists to prepare such an account in the order in which the subjects are to stand in the Treaty.

The Conference was adjourned to the 4th of May.

(Signed,) TENTERDEN.
J. C. BANCROFT DAVIS.

36th Protocol of Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.

WASHINGTON, May 4, 1871.

The High Commissioners having met, the Protocol of the Conference held on the 3rd of May was read and confirmed.

The High Commissioners then proceeded with the consideration of the matters referred to them.

The statement prepared by the Joint Protocolists, in accordance with the request of the Joint High Commissioners at the last Conference, was then read as follows :—

Statement.

ARTICLES I TO XI.

At the Conference held on the 8th of March, the American Commissioners stated that the people and Government of the United States felt that they had sustained a great wrong, and that great injuries and losses were inflicted upon their commerce and their material interests by the course and conduct of Great Britain during the recent rebellion in the United States ; that what had occurred in Great Britain and her Colonies during that period had given rise to feelings in the United States which the people of the United States did not desire to cherish toward Great Britain ; that the history of the "Alabama" and other cruizers which had been fitted out, or armed, or equipped, or which had received augmentation of force in Great Britain or in her colonies, and of the operations of those vessels, showed extensive direct losses in the capture and destruction of a large number of vessels with their cargoes, and in the heavy national expenditures in the pursuit of the cruizers, and indirect injury in the transfer of a large part of the American commercial marine to the British flag, in the enhanced payments of insurance, in the prolongation of the war, and in the addition of a large sum to the cost of the war and the suppression of the rebellion ; and also showed that Great Britain, by reason of failure in the proper observance of her duties as a neutral, had become justly liable for the acts of those cruizers and of their tenders ; that the claims for the loss and destruction of private property which had thus far been presented amounted to about fourteen millions of dollars, without interest, which amount was liable to be greatly increased by claims which had not been presented ; that the cost to which the Government had been put in the pursuit of cruisers could easily be ascertained by certificates of Government accounting officers ; that in the hope of an amicable settlement no estimate was made of the indirect losses, without prejudice, however, to the right to indemnification on their account in the event of no such settlement being made.

The American Commissioners further stated that they hoped that the British Commissioners would be able to place upon record an expression of regret by Her Majesty's Government for the depredations committed by the vessels whose acts were now under discussion. They also proposed that the Joint High Commission should agree upon a

sum which should be paid by Great Britain to the United States, in satisfaction of all the claims and the interest thereon.

The British Commissioners replied, that Her Majesty's Government could not admit that Great Britain had failed to discharge toward the United States the duties imposed on her by the rules of international law, or that she was justly liable to make good to the United States the losses occasioned by the acts of the cruisers to which the American Commissioners had referred. They reminded the American Commissioners that several vessels, suspected of being designed to cruise against the United States, including two iron-clads, had been arrested or detained by the British Government, and that that Government had in some instances not confined itself to the discharge of international obligations, however widely construed; as, for instance, when it acquired at a great cost to the country the control of the Anglo-Chinese Flotilla, which, it was apprehended, might be used against the United States.

They added, that although Great Britain had, from the beginning, disavowed any responsibility for the acts of the "Alabama" and the other vessels, she had already shown her willingness, for the sake of the maintenance of friendly relations with the United States, to adopt the principle of arbitration, providing that a fitting arbitrator could be found, and that an agreement could be come to as to the points to which arbitration should apply. They would, therefore, abstain from replying in detail to the statement of the American Commissioners, in the hope that the necessity for entering upon a lengthened controversy might be obviated by the adoption of so fair a mode of settlement as that which they were instructed to propose; and they had now to repeat, on behalf of their Government, the offer of arbitration.

The American Commissioners expressed their regret at this decision of the British Commissioners, and said further that they could not consent to submit the question of the liability of Her Majesty's Government to arbitration unless the principles which should govern the Arbitrator in the consideration of the facts could be first agreed upon.

The British Commissioners replied, that they had no authority to agree to a submission of these claims to an Arbitrator with instructions as to the principles which should govern him in the consideration of them. They said that they should be willing to consider what principles should be adopted for observance in future; but that they were of opinion that the best mode of conducting an arbitration was to submit the facts to the Arbitrator, and leave him free to decide upon them after hearing such arguments as might be necessary.

The American Commissioners replied, that they were willing to consider what principles should be laid down for observance in similar cases in future, with the understanding that any principles that should be agreed upon should be held to be applicable to the facts in respect to the "Alabama" claims.

The British Commissioners replied, that they could not admit that there had been any violation of existing principles of international law, and that their instructions did not authorize them to accede to a proposal for laying down rules for the guidance of the Arbitrator, but that they would make known to their Government the views of the American Commissioners on the subject.

At the respective Conferences on March 9, March 10, March 13, and March 14, the Joint High Commission considered the form of the declaration of principles or rules which the American Commissioners desired to see adopted for the instruction of the Arbitrator and laid down for observance by the two Governments in future.

At the close of the Conference of the 14th of March the British Commissioners reserved several questions for the consideration of their Government.

At the Conference on the 5th of April the British Commissioners stated, that they were instructed by Her Majesty's Government to declare that Her Majesty's Government could not assent to the proposed rules as a statement of principles of international law which were in force at the time when the "Alabama" claims arose, but that Her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries, and of making satisfactory provision for the future, agreed that in deciding the questions between the two countries arising out of those claims, the Arbitrator

should assume that Her Majesty's Government had undertaken to act upon the principles set forth in the rules which the American Commissioners had proposed, viz.:

That a neutral Government is bound, first, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly. To exercise due diligence in its own ports or waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

It being a condition of this undertaking that these obligations should in future be held to be binding internationally between the two countries.

It was also settled that in deciding the matters submitted to him, the Arbitrator should be governed by the foregoing rules, which had been agreed upon as rules to be taken as applicable to the case, and by such principles of international law, not inconsistent therewith, as the Arbitrator should determine to have been applicable to the case.

The Joint High Commission then proceeded to consider the form of submission and the manner of constituting a tribunal of arbitration.

At the Conferences on the 6th, 8th, 9th, 10th, and 12th of April, the Joint High Commission considered and discussed the form of submission, the manner of the award, and the mode of selecting the Arbitrators.

The American Commissioners, referring to the hope which they had expressed on the 8th of March, inquired whether the British Commissioners were prepared to place upon record an expression of regret by Her Majesty's Government for the depredations committed by the vessels whose acts were now under discussion; and the British Commissioners replied that they were authorized to express, in a friendly spirit, the regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the "Alabama" and other vessels from British ports, and for the depredations committed by those vessels.

The American Commissioners accepted this expression of regret as very satisfactory to them and as a token of kindness, and said that they felt sure it would be so received by the Government and people of the United States.

In the Conference on the 13th of April, the Treaty Articles I to XI were agreed to.

Articles XII to XVII.

At the Conference on the 4th March it was agreed to consider the subjects referred to the Joint High Commission by the respective Governments in the order in which they appeared in the correspondence between Sir Edward Thornton and Mr. Fish, and to defer the consideration of the adjustment of "all other claims, both of British subjects and citizens of the United States, arising out of acts committed during the recent civil war in this country," as described by Sir Edward Thornton in his letter of February 1, until the subjects referred to in the previous letters should have been disposed of.

The American Commissioners said that they supposed that they were right in their opinion that British laws prohibit British subjects from owning slaves; they therefore inquired whether any claim for slaves, or for alleged property or interest in slaves, can or will be presented by the British Government, or in behalf of any British subject, under the Treaty now being negotiated, if there be in the Treaty no express words excluding such claims.

The British Commissioners replied, that by the law of England British subjects had long been prohibited from purchasing or dealing in slaves, not only within the dominions of the British Crown, but in any foreign country; and that they had no hesitation in saying that no claim on behalf of any British subject, for slaves or for any property or interest in slaves, would be presented by the British Government.

Referring to the paragraph in Sir Edward Thornton's letter of January 26, relating to "the mode of settling the different questions which have arisen out of the Fisheries, as well as all those which affect the relations of the United States towards Her Majesty's Possessions in North America," the British Commissioners proposed that the Joint High Commission should consider the claims for injuries which the people of Canada had suffered from what were known as the Fenian raids.

The American Commissioners objected to this, and it was agreed that the subject might be brought up again by the British Commissioners in connection with the subjects referred to by Sir Edward Thornton in his letter of February 1.

At the conference on the 14th of April the Joint High Commission took into consideration the subjects mentioned by Sir Edward Thornton in that letter.

The British Commissioners proposed that a Commission for the consideration of these claims should be appointed, and that the Convention of 1853 should be followed as a precedent. This was agreed to, except that it was settled that there should be a third Commissioner instead of an Umpire.

At the Conference on the 15th of April, the Treaty Articles XII to XVII were agreed to.

At the Conference on the 26th of April the British Commissioners again brought before the Joint High Commission the claims of the people of Canada for injuries suffered from the Fenian raids. They said that they were instructed to present these claims, and to state that they were regarded by Her Majesty's Government as coming within the class of subjects indicated by Sir Edward Thornton in his letter of January 26, as subjects for the consideration of the Joint High Commission.

The American Commissioners replied, that they were instructed to say that the Government of the United States did not regard these claims as coming within the class of subjects indicated in that letter as subjects for the consideration of the Joint High Commission, and that they were without any authority from their Government to consider them. They therefore declined to do so.

The British Commissioners stated that, as the subject was understood not to be within the scope of the instructions of the American Commissioners, they must refer to their Government for further instructions upon it.

At the Conference on the 3rd May the British Commissioners stated that they were instructed by their Government to express their regret that the American Commissioners were without authority to deal with the question of the Fenian raids, and they inquired whether that was still the case.

The American Commissioners replied, that they could see no reason to vary the reply formerly given to this proposal; that in their view the subject was not embraced in the scope of the correspondence between Sir Edward Thornton and Mr. Fish under either of the letters of the former; and that they did not feel justified in entering upon the consideration of any class of claims not contemplated at the time of the creation of the present Commission, and that the claims now referred to did not commend themselves to their favour.

The British High Commissioners said that under these circumstances they would not urge further that the settlement of these claims should be included in the present Treaty, and that they had the less difficulty in doing so as a portion of the claims were of a constructive and inferential character.

Articles XVIII to XXV.

At the Conference on the 6th of March the British Commissioners stated that they were prepared to discuss the question of the Fisheries, either in detail or generally, so as either to enter into an examination of the respective rights of the two countries under the Treaty of 1818, and the general law of nations, or to approach at once the settlement of the question on a comprehensive basis.

The American Commissioners said, that with the view of avoiding the discussion of matters which subsequent negotiation might render it unnecessary to enter into, they thought it would be preferable to adopt the latter course, and inquired what, in that case, would be the basis which the British Commissioners desired to propose.

The British Commissioners replied, that they considered that the Reciprocity Treaty of 5th June, 1854, should be restored in principle.

The American Commissioners declined to assent to a renewal of the former Reciprocity Treaty.

The British Commissioners then suggested that, if any considerable modification were made in the Tariff arrangements of that Treaty, the coasting trade of the United States and of Her Britannic Majesty's possessions in North America should be reciprocally thrown open, and that the navigation of the River St. Lawrence and of the Canadian Canals should be also thrown open to the citizens of the United States on terms of equality with British subjects.

The American Commissioners declined this proposal, and objected to a negotiation on the basis of the Reciprocity Treaty. They said that that Treaty had proved unsatisfactory to the people of the United States, and consequently had been terminated by notice from the Government of the United States, in pursuance of its provisions. Its renewal was not in their interest, and would not be in accordance with the sentiments of their people. They further said that they were not at liberty to treat of the opening of the coasting trade of the United States to the subjects of Her Majesty residing in her possessions in North America. It was agreed that the questions relating to the navigation of the River St. Lawrence, and of the Canadian Canals, and to other commercial questions affecting Canada, should be treated by themselves.

The subject of the Fisheries was further discussed at the Conferences on the 7th, 20th, 22nd, and 25th of March. The American Commissioners stated that if the value of the inshore fisheries could be ascertained, the United States might prefer to purchase, for a sum of money, the right to enjoy, in perpetuity, the use of these inshore fisheries in common with British fishermen, and mentioned 1,000,000 dollars as the sum they were prepared to offer. The British Commissioners replied that this offer was, they thought, wholly inadequate, and that no arrangement would be acceptable of which the admission into the United States, free of duty, of fish the produce of the British fisheries, did not form a part; adding that any arrangement for the acquisition by purchase of the inshore fisheries in perpetuity was open to grave objection.

The American Commissioners inquired whether it would be necessary to refer any arrangement for purchase to the Colonial or Provincial Parliaments.

The British Commissioners explained that the fisheries within the limits of maritime jurisdiction were the property of the several British Colonies, and that it would be necessary to refer any arrangement which might affect Colonial property or rights to the Colonial or Provincial Parliaments; and that legislation would also be required on the part of the Imperial Parliament. During these discussions the British Commissioners contended that these inshore fisheries were of great value, and that the most satisfactory arrangement for their use would be a reciprocal tariff arrangement, and reciprocity in the coasting trade; and the American Commissioners replied that their value was over-estimated; that the United States desired to secure their enjoyments, not for their commercial or intrinsic value, but for the purpose of removing a source of irritation; and that they could hold out no hope that the Congress of the United States would give its consent to such a tariff

arrangement as was proposed, or to any extended plan of reciprocal free admission of the products of the two countries; but that, inasmuch as one branch of Congress had recently, more than once, expressed itself in favour of the abolition of duties on coal and salt, they would propose that coal, salt, and fish be reciprocally admitted free; and that, inasmuch as Congress had removed the duty from a portion of the lumber heretofore subject to duty, and as the tendency of legislation in the United States was towards the reduction of taxation and of duties in proportion to the reduction of the public debt and expenses, they would further propose that lumber be admitted free from duty from and after the 1st of July, 1874, subject to the approval of Congress, which was necessary on all questions affecting import duties.

The British Commissioners, at the Conference on the 17th of April, stated that they had referred this offer to their Government, and were instructed to inform the American Commissioners that it was regarded as inadequate, and that Her Majesty's Government considered that free lumber should be granted at once, and that the proposed tariff concessions should be supplemented by a money payment.

The American Commissioners then stated that they withdrew the proposal which they had previously made of the reciprocal free admission of coal, salt, and fish, and of lumber after July 1, 1874; that that proposal had been made entirely in the interest of a peaceful settlement, and for the purpose of removing a source of irritation and of anxiety; that its value had been beyond the commercial or intrinsic value of the rights to have been acquired in return; and that they could not consent to an arrangement on the basis now proposed by the British Commissioners; and they renewed their proposal to pay a money equivalent for the use of the inshore fisheries. They further proposed that, in case the two Governments should not be able to agree upon the sum to be paid as such an equivalent, the matter should be referred to an impartial Commission for determination.

The British Commissioners replied, that this proposal was one on which they had no instructions, and that it would not be possible for them to come to any arrangement except one for a term of years and involving the concession of free fish and fish-oil by the American Commissioners; but that if free fish and fish-oil were conceded, they would inquire of their Government whether they were prepared to assent to a reference to arbitration as to money payment.

The American Commissioners replied, that they were willing, subject to the action of Congress, to concede free fish and fish-oil as an equivalent for the use of the inshore fisheries, and to make the arrangement for a term of years; that they were of opinion that free fish and fish-oil would be more than an equivalent for those fisheries, but that they were also willing to agree to a reference to determine that question and the amount of any money payment that might be found necessary to complete an equivalent, it being understood that legislation would be needed before any payment could be made.

The subject was further discussed in the Conferences of April 18 and 19, and the British Commissioners having referred the last proposal to their Government and received instructions to accept it, the Treaty Articles XVIII to XXV were agreed to at the Conference on the 22nd of April.

Articles XXVI to XXXIII.

At the Conference on the 6th of March the British Commissioners proposed that the Reciprocity Treaty of June 5, 1854, should be restored in principle, and that, if any considerable modifications in the Tariff arrangements in force under it were made, the coasting trade of the United States and of Her Britannic Majesty's Possessions in North America should be reciprocally thrown open, and that the navigation of the River St. Lawrence and of the Canadian Canals should be thrown open to the citizens of the United States on terms of equality with British subjects.

The American Commissioners declined this proposal, and in the subsequent negotiations the question of the Fisheries was treated by itself.

At the Conference on the 17th March the Joint High Commission considered the subject of the American improvement of the navigation of the St. Clair Flats.

At the Conference on the 18th March the questions of the navigation of the River St. Lawrence and the Canals and the other subjects connected therewith were taken up.

The American Commissioners proposed to take into consideration the question of transit of goods in bond through Canada and the United States, which was agreed to.

The British Commissioners proposed to take into consideration the question of opening the coasting trade of the lakes reciprocally to each party, which was declined.

On the proposal of the British Commissioners it was agreed to take the question of transhipment into consideration.

The British Commissioners proposed to take into consideration the reciprocal registration of vessels, as between the Dominion of Canada and the United States, which was declined.

At the Conference on the 23rd March the transhipment question was discussed and postponed for further information on the motion of the American Commissioners.

The transit question was discussed, and it was agreed that any settlement that might be made should include a reciprocal arrangement in that respect for the period for which the Fishery Articles should be in force.

The question of the navigation of the River St. Lawrence and the Canals was taken up.

The British Commissioners stated that they regarded the concession of the navigation of Lake Michigan as an equivalent for the concession of the navigation of the River St. Lawrence.

As to the Canals they stated that the concession of the privilege to navigate them in their present condition, on terms of equality with British subjects, was a much greater concession than the corresponding use of the Canals offered by the United States.

They further said that the enlargement of the Canals would involve the expenditure of a large amount of money, and they asked what equivalent the American Commissioners proposed to give for the surrender of the right to control the tolls for the use of the Canals, either in their present state or after enlargement.

The American Commissioners replied that, unless the Welland Canal should be enlarged so as to accommodate the present course of trade, they should not be disposed to make any concessions; that in their opinion the citizens of the United States could now justly claim to navigate the River St. Lawrence in its natural state, ascending and descending, from the 45th parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea; and they could not concede that the navigation of Lake Michigan should be given or taken as an equivalent for that right; and they thought that the concession of the navigation of Lake Michigan and of the Canals offered by them was more than an equivalent for the concessions as to the Canadian Canals which were asked. They proposed, in connection with a reciprocal arrangement as to transit and transhipment, that Canada should agree to enlarge the Welland and St. Lawrence Canals, to make no discriminating tolls, and to limit the tolls to rates sufficient to maintain the Canals, pay a reasonable interest on the cost of construction and enlargement, and raise a sinking fund for the repaying within a reasonable time the cost of enlargement; and that the navigation of the River St. Lawrence, the Canadian Canals, the Canals offered by the United States, and Lake Michigan should be enjoyed reciprocally by citizens of the United States and by British subjects. This proposal was declined by the British Commissioners, who repeated that they did not regard the equivalent offered by the United States as at all commensurate with the concessions asked from Great Britain.

At the Conference on the 27th of March the proposed enlargement of the Canadian Canals was further discussed. It was stated on the part of the British Commissioners that the Canadian Government were now considering the expediency of enlarging the capacity of the Canals on the River St. Lawrence, and had already provided for the enlargement of the Welland Canal, which would be undertaken without delay.

The subject of the export duty, in New Brunswick, on American lumber floated down the River St. John, was proposed for consideration by the American Commissioners.

At the Conference on the 22nd of April the British Commissioners proposed that the navigation of Lake Michigan should be given in exchange for the navigation of the River St. Lawrence; and that Her Majesty's Government should agree to urge upon the Dominion of Canada to give to the citizens of the United States the use of the Canadian Canals on terms of equality with British subjects; and that the Government of the United States should agree to urge upon the several States to give to British subjects the use of the several State Canals on terms of equality with citizens of the United States. They also proposed, as part of the arrangement, a reciprocal agreement as to transit and transhipment, and that the Government of Great Britain should urge upon New Brunswick not to impose export duties on the lumber floated down the River St. John for shipment to the United States.

The American Commissioners repeated their views as to the navigation of the River St. Lawrence in its natural state.

The British Commissioners replied, that they could not admit the claims of American citizens to navigate the River St. Lawrence as of right; but that the British Government had no desire to exclude them from it. They however pointed out that there were certain rivers running through Alaska which should on like grounds be declared free and open to British subjects, in case the River St. Lawrence should be declared free.

The American Commissioners replied, that they were prepared to consider that question. They also assented to the arrangement as to the Canals which was proposed by the British Commissioners, limiting it, as regarded American Canals, to the Canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the British and American possessions. They likewise agreed to give the right of navigating Lake Michigan for a term of years. They desired, and it was agreed, that the transhipment arrangement should be made dependent upon the non-existence of discriminating tolls or regulations on the Canadian Canals, and also upon the abolition of the New Brunswick export duty on American lumber intended for the United States. It was also agreed that the right of carrying should be made dependent upon the non-imposition of export duties on either side on the goods of the other party passing in transit.

The discussion of these subjects was further continued at the Conferences of the 24th, 25th, and 26th of April, and the Treaty Articles XXVI to XXXIII were agreed to at the Conference on the 3rd of May.

In the course of these discussions the British Commissioners called attention to the question of the survey of the boundary line along the forty-ninth parallel, which still remained unexecuted from the Lake of the Woods to the Rocky Mountains, and to which reference had been made in the President's Message.

The American Commissioners stated, that the survey was a matter for administrative action, and did not require to be dealt with by a Treaty provision. The United States' Government would be prepared to agree with the British Government for the appointment of a Boundary Survey Commission, in the same manner as had been done in regard to the remainder of the boundary along the forty-ninth parallel as soon as the legislative appropriations and other necessary arrangements could be made.

Articles XXXIV to XLII.

At the Conference on the 15th of March the British Commissioners stated that it was proposed that day to take up the North-West Water Boundary question; that the difference was one of long standing, which had more than once been the subject of negotiations between the two Governments, and that the negotiators had, in January, 1869, agreed upon a Treaty. They then proposed that an arbitration of this question should be made upon the basis of the provisions of that Treaty.

The American Commissioners replied that, though no formal vote was actually taken upon it, it was well understood that that Treaty had not been favorably regarded by the Senate. They declined the proposal of the British Commissioners, and expressed their wish that an effort should be made to settle the question in the Joint High Commission.

The British Commissioners assented to this, and presented the reasons which induced them to regard the Rosario Straits as the channel contemplated by the Treaty of June 15, 1846.

The American Commissioners replied, and presented the reasons which induced them to regard the Haro Channel as the channel contemplated by that Treaty. They also produced in support of their views some original correspondence of Mr. Everett with his Government, which had not been alluded to in previous discussions of the question.

The British Commissioners replied, that they saw in that correspondence no reason to induce them to change the opinion which they had previously expressed. They then asked whether the American Commissioners had any further proposal to make.

The American Commissioners replied that, in view of the position taken by the British Commissioners, it appeared that the Treaty of June 15, 1846, might have been made under a mutual misunderstanding, and would not have been made had each party understood at that time the construction which the other party puts upon the language whose interpretation is in dispute; they therefore proposed to abrogate the whole of that part of the Treaty, and re-arrange the boundary line which was in dispute before that Treaty was concluded.

The British Commissioners replied that the proposal to abrogate a Treaty was one of a serious character, and that they had no instructions which would enable them to entertain it; and at the Conference on the 20th of March the British Commissioners declined the proposal.

At the Conference on the 19th of April the British Commissioners proposed to the American Commissioners to adopt the Middle Channel (generally known as the Douglas Channel) as the channel through which the boundary line should be run, with the understanding that all the channels through the Archipelago should be free and common to both Parties.

The American Commissioners declined to entertain that proposal. They proposed that the Joint High Commission should recognize the Haro Channel as the channel intended by the Treaty of June 15, 1846, with a mutual agreement that no fortifications should be erected by either Party to obstruct or command it, and with proper provisions as to any existing proprietary rights of British subjects in the Island of San Juan.

The British Commissioners declined this proposal, and stated that, being convinced of the justice of their view of the Treaty, they could not abandon it except after a fair decision by an impartial Arbitrator. They therefore renewed their proposal for a reference to arbitration, and hoped that it would be seriously considered.

The American Commissioners replied, that they had hoped that their last proposal would be accepted. As it had been declined, they would, should the other questions between the two Governments be satisfactorily adjusted, agree to a reference to arbitration to determine whether the line should run through the Haro Channel or through the Rosario Straits, upon the condition that either Government should have the right to include in the evidence to be considered by the Arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases. This condition was agreed to.

The British Commissioners proposed that the Arbitrator should have the right to draw the boundary through an intermediate channel. The American Commissioners declined this proposal, stating that they desired a decision, not a compromise.

The British Commissioners proposed that it should be declared to be the proper construction of the Treaty of 1846 that all the channels were to be open to navigation by both Parties. The American Commissioners stated that they did not so construe the Treaty of 1846, and therefore could not assent to such a declaration.

The discussion of this subject was continued during this Conference, and in the Conference of the 22nd of April the Treaty Articles XXXIV to XLII were agreed to.

The Joint High Commissioners approved this Statement, and directed it to be entered in the Protocol.

The Conference was adjourned to the 6th of May.

(Signed) TENTERDEN.
J. C. BANCROFT DAVIS.

37th Protocol of the Conference between the High Commissioners on the part of Great Britain and the High Commissioners on the part of the United States of America.

Washington, May 6, 1871.

The High Commissioners having met, the Protocol of the Conference held on the 4th of May was read and confirmed.

Lord de Grey said that, as the Joint High Commission would not meet again after to-day, except for the purpose of signing the Treaty, he desired, on behalf of himself and his colleagues, to express their high appreciation of the manner in which Mr. Fish and his American colleagues had, on their side, conducted the negotiations. It had been most gratifying to the British Commissioners to be associated with colleagues who were animated with the same sincere desire as themselves to bring about a settlement, equally honourable and just to both countries, of the various questions of which it had been their duty to treat, and the British Commissioners would always retain a grateful recollection of the fair and friendly spirit which the American Commissioners had displayed.

Mr. Fish, in behalf of the American Commissioners, said that they were gratefully sensible of the friendly words expressed by Lord de Grey, and of the kind spirit which had prompted them. From the date of the first Conference the American Commissioners had been impressed by the earnestness of desire manifested by the British Commissioners to reach a settlement worthy of the two Powers who had committed to this Joint High Commission the treatment of various questions of peculiar interest, complexity, and delicacy. His colleagues and he could never cease to appreciate the generous spirit and the open and friendly manner in which the British Commissioners had met and discussed the several questions that had led to the conclusion of a Treaty which it was hoped would receive the approval of the people of both countries, and would prove the foundation of a cordial and friendly understanding between them for all time to come.

Mr. Fish further said that he was sure that every member of the Joint High Commission would desire to record his appreciation of the ability, the zeal, and the unceasing labour which the Joint Protocolists had exhibited in the discharge of their arduous and responsible duties, and that he knew that he only gave expression to the feelings of the Commissioners in saying that Lord Tenterden and Mr. Bancroft Davis were entitled to, and were requested to accept, the thanks of the Joint High Commission for their valuable services, and the great assistance which they had rendered with unvarying obligingness to the Commission.

Lord de Grey replied, on behalf of the British Commissioners, that he and his colleagues most cordially concurred in the proposal made by Mr. Fish, that the thanks of the Joint High Commission should be tendered to Mr. Bancroft Davis and Lord Tenterden for their valuable services as Joint Protocolists. The British Commissioners were also quite as sensible as their American colleagues of the great advantage which the Commission had derived from the assistance which those gentlemen had given them in the conduct of the important negotiations in which they had been engaged.

Monday, the 8th of May, was appointed for the signature of the Treaty.

(Signed) TENTERDEN,
J. C. BANCROFT DAVIS.

DESPATCH FROM HER MAJESTY'S HIGH COMMISSIONERS, WITH COPY ANNEXED OF THE TREATY SIGNED AT WASHINGTON, MAY 8, 1871.

Her Majesty's High Commissioners to Earl Granville.—(Received May 21.)

WASHINGTON, MAY 8, 1871.

My Lord,—We have the honour to report that we have this day signed the Treaty with the United States' High Commissioners at the State Department.

Copies of the Treaty are inclosed. The original will be conveyed to London by Lord Tenterden.

As the duties of Her Majesty's High Commission have now been completed, we desire to bring to your Lordship's notice in a very special manner the valuable assistance which we have received from Lord Tenterden throughout our negotiations. We cannot speak too highly of the remarkable knowledge and ability which he has displayed, or of the zeal with which he has devoted himself to his duties, and we feel ourselves under the greatest obligations to him.

We further wish to place upon record our strong appreciation of the services which have been rendered to us by Mr. Henry Howard, and our sense of the great advantage which we have derived from them.

Our thanks are also due to Mr. H. S. Northcote, of whose special aptitude for business we have formed a high opinion, as well as to Viscount Goderich, who has rendered us most willing assistance.

We have, &c.

(Signed) DE GREY AND RIPON.
STAFFORD H. NORTHCOTE.
EDWD. THORNTON.
JOHN A. MACDONALD.
MOUNTAGUE BERNARD.

INCLOSURE.

Treaty between Her Majesty and the United States of America. Signed at Washington, May 8, 1871. Ratifications exchanged at London, June, 1871.

HER Britannic Majesty and the United States of America, being desirous to provide for an amicable settlement of all causes of difference between the two countries, have for that purpose appointed their respective Plenipotentiaries, that is to say :—

Her Britannic Majesty on her part has appointed as Her High Commissioners and Plenipotentiaries, the Right Honourable George Frederick Samuel Earl de Grey and Earl of Ripon, Viscount Goderich, Baron Grantham, a Baronet, a Peer of the United Kingdom, Lord President of Her Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, &c., &c. ; the Right Honourable Sir Stafford Henry Northcote, Baronet, one of Her Majesty's Most Honourable Privy Council, a Member of Parliament, a Companion of the Most Honourable Order of the Bath, &c,, &c. ; Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America ; Sir John Alexander Macdonald, Knight Commander of the Most Honourable Order of the Bath, a Member of Her Majesty's Privy Council for Canada, and Minister of Justice and Attorney-General of Her Majesty's Dominion of Canada ; and Mountague Bernard, Esq., Chichele Professor of International Law in the University of Oxford ;

And the President of the United States has appointed on the part of the United States as Commissioners in a Joint High Commission and Plenipotentiaries, Hamilton Fish, Secretary of State; Robert Cumming Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain; Samuel Nelson, an Associate Justice of the Supreme Court of the United States; Ebenezer Rockwood Hoar, of Massachusetts; and George Henry Williams, of Oregon;

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:—

ARTICLE I.

Whereas differences have arisen between the Government of the United States and the Government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama" claims:

And whereas Her Britannic Majesty has authorized Her High Commissioners and Plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the "Alabama" and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by Her Britannic Majesty's Government, the High Contracting Parties agree that all the said claims, growing out of acts committed by the aforesaid vessels, and generically know as the "Alabama" claims, shall be referred to a Tribunal of Arbitration to be composed of five Arbitrators to be appointed in the following manner, that is to say: one shall be named by Her Britannic Majesty; one shall be named by the President of the United States; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty, or the President of the United States, or His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, as the case may be, may forthwith name another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the request from either of the High Contracting Parties of His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, to name an Arbitrator either to fill the original appointment or in the place of one who may have died, be absent, or incapacitated, or who may omit, decline, or from any cause cease to act as such Arbitrator, His Majesty the King of Sweden and Norway shall be requested to name one or more persons, as the case may be, to act as such Arbitrator or Arbitrators.

ARTICLE II.

The Arbitrators shall meet at Geneva, in Switzerland, at the earliest convenient day after they shall have been named, and shall proceed impartially and carefully to examine and decide all questions that shall be laid before them on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final award, shall be decided by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

ARTICLE III.

The written or printed case of each of the two Parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other Party as soon as may be after the organization of the Tribunal, but within a period not exceeding six months from the date of the exchange of the ratifications of this Treaty.

ARTICLE IV.

Within four months after the delivery on both sides of the written or printed case, either Party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a counter case and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence, so presented by the other Party.

The Arbitrators may, however, extend the time for delivering such counter case, documents, correspondence, and evidence, when, in their judgment, it becomes necessary, in consequence of the distance of the place from which the evidence to be presented is to be procured.

If in the case submitted to the Arbitrators either Party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy; such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrators may require.

ARTICLE V.

It shall be the duty of the Agent of each Party, within two months after the expiration of the time limited for the delivery of the counter case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other Party a written or printed argument showing the points and referring to the evidence upon which his Government relies; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument or oral argument by counsel upon it; but in such case the other Party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE VI.

In deciding the matters submitted to the Arbitrators they shall be governed by the following three rules, which are agreed upon by the High Contracting Parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to have been applicable to the case :—

RULES.

A neutral Government is bound—

First :—To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly :—Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly :—To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that Her Majesty's Government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in Article I arose, but that Her Majesty's Goverment, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that, in deciding the questions between the two countries arising out of those claims, the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these rules.

And the High Contracting Parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime Powers and to invite them to accede to them.

ARTICLE VII.

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Abitrators who may assent to it.

The said Tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission, failed to fulfil any of the duties set forth in the foregoing three rules, or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact as to each of the said vessels. In case the Tribunal find that Great Britain has failed to fulfil any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it ; and in such case the gross sum so awarded shall be paid in coin by the Government of Great Britain to the Government of the United States at Washington within twelve months after the date of the award.

The award shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States for his Government.

ARTICLE VIII.

Each Government shall pay its own Agent and provide for the proper remuneration of the Counsel employed by it, and of the Arbitrator appointed by it, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE IX.

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE X.

In case the Tribunal finds that Great Britain has failed to fulfil any duty or duties as aforesaid, and does not award a sum in gross, the High Contracting Parties agree that a Board of Assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure as to each vessel, according to the extent of such liability as decided by the Arbitrators.

The Board of Assessors shall be constituted as follows : One member thereof shall be named by Her Britannic Majesty, one member thereof shall be named by the President of the United States, and one member thereof shall be named by the Representative at Washington of His Majesty the King of Italy ; and in case of a vacancy happening from any cause, it shall be filled in the same manner in which the original appointment was made.

As soon as possible after such nominations the Board of Assessors shall be organized in Washington with power to hold their sittings there, or in New York, or in Boston. The members thereof shall severally subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, all matters submitted to them, and shall forthwith proceed, under such rules and regulations as they may prescribe, to the investigation of the claims which shall be presented to them by the Government of the United States, and shall examine and decide upon them in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the Governments of Great Britain and of the United States respectively. They shall be bound to hear on each separate claim, if required, one person on behalf of each Government as Counsel or Agent. A majority of the Assessors in each case shall be sufficient for a decision.

The decision of the Assessors shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

Every claim shall be presented to the Assessors within six months from the day of their first meeting ; but they may, for good cause shown, extend the time for the presentation of any claim to a further period not exceeding three months.

The Assessors shall report to each Government, at or before the expiration of one year from the date of their first meeting, the amount of claims decided by them up to the date of such report ; if further claims then remain undecided, they shall make a further report at or before the expiration of two years from the date of such first meeting ; and in case any claims remain undetermined at that time, they shall make a final report within a further period of six months.

The report or reports shall be made in duplicate, and one copy thereof shall be delivered to the Representative of Her Britannic Majesty at Washington, and one copy thereof to the Secretary of State of the United States.

All sums of money which may be awarded under this Article shall be payable at Washington, in coin, within twelve months after the delivery of each report.

The Board of Assessors may employ such clerks as they shall think necessary.

The expenses of the Board of Assessors shall be borne eqally by the two Governments, and paid from time to time, as may be found expedient, on the production of accounts certified by the Board. The remuneration of the Assessors shall also be paid by the two Governments in equal moieties in a similar manner.

Article XI.

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration and of the Board of Assessors, should such Board be appointed, as a full, perfect, and final settlement of all the claims hereinbefore referred to ; and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the Tribunal or Board, shall, from and after the conclusion of the proceedings of the Tribunal or Board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

Article XII.

The High Contracting Parties agree that all claims on the part of Corporations, Companies, or private individuals, citizens of the United States, upon the Government of

Her Britannic Majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the 13th April, 1861, and the 9th of April, 1865, inclusive, not being claims growing out of the acts of the vessels referred to in Article I of this Treaty; and all claims, with the like exception, on the part of Corporations, Companies, or private individuals, subjects of Her Britannic Majesty, upon the Government of the United States, arising out of acts committed against the persons or property of subjects of Her Britannic Majesty during the same period, which may have been presented to either Government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in Article XIV of this Treaty, shall be referred to three Commissioners, to be appointed in the following manner, that is to say:—One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date of the exchange of the ratifications of this Treaty, then the third Commissioner shall be named by the Representative at Washington of His Majesty the King of Spain. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appintment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named, shall meet at Washington at the earliest convenient period after they have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty, and of the United States, repsectively; and such declaration shall be entered on the record of their proceedings.

Article XIII.

The Commissioner shall then forthwith proceed to the investigation of the claims which shall be presented to them. They shall investigate and decide such claims in such order and such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of their respective Governments in support of, or in answer to any claim; and to hear, if required, one person on each side, on behalf of each Government, as Counsel or Agent for such Government, on each and every separate claim. A majority of the Commissioners shall be sufficient for an award in each case The award shall be given upon each claim in writing, and shall be signed by the Commissioners assenting to it. It shall be competent for each Government to name one person to attend the Commissioners as its Agent to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The High Contracting Parties hereby engage to consider the decision of the Commissioners as absolutely final and conclusive upon each claim decided upon by them, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

Article XIV.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners; and then, and in any such case, the period for presenting the claim may be extended by them to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly or to any and what extent, according to the true intent and meaning of this Treaty.

ARTICLE XV.

All sums of money which may be awarded by the Commissioners on account of any claim shall be paid by the one Government to the other, as the case may be, within twelve months after the date of the final award, without interest, and without any deduction save as specified in Article XVI of this Treaty.

ARTICLE XVI.

The Commissioners shall keep an accurate record, and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a Secretary and any other necessary officer or officers, to assist them in the transaction of the business which may come before them.

Each Government shall pay its own Commissioner and Agent or Counsel. All other expenses shall be defrayed by the two Governments in equal moieties.

The whole expenses of the Commission, including contingent expenses, shall be defrayed by a rateable deduction on the amount of the sums awarded by the Commissioners; provided always that such deduction shall not exceed the rate of 5 per cent. on the sums so awarded.

ARTICLE XVII.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full, perfect, and final settlement of all such claims as are mentioned in Article XII of this Treaty upon either Government; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled, barred, and thenceforth inadmissible.

ARTICLE XVIII.

It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States' fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks, of the Provinces of Quebec Nova Scotia and New Brunswick, and the Colony of Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

ARTICLE XIX.

It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers are hereby reserved exclusively for fishermen of the United States.

ARTICLE XX.

It is agreed that the places designated by the Commissioners appointed under the first Article of the Treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's dominions, and the United States as places reserved from the common right of fishing under that Treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding Articles. In case any question should arise between the Governments of Her Britannic Majesty and of the United States as to the common right of fishing in places not thus designated as reserved, it is agreed that a Commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the Commission appointed under the said first Article of the Treaty of the 5th of June, 1854.

ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish-oil and fish of all kinds, (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the Dominion of Canada, or of Prince Edward's Island, or of the United States, shall be admitted into each country, respectively, free of duty.

ARTICLE XXII.

Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this Treaty are of greater value than those accorded by Articles XIX and XXI of this Treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States; it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty; and that any sum of money which the said Commissioners may so award shall be paid by the United States Government, in a gross sum, within twelve months after such award shall have been given.

ARTICLE XXIII.

The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say: One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this Article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet in the city of Halifax, in the Province of Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

Each of the High Contracting Parties shall also name one person to attend the Commission as its agent, to represent it generally in all matters connected with the Commission.

ARTICLE XXIV.

The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of this Treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either Party shall offer oral testimony, the other Party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

If in the case submitted to the Commissioners either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this Treaty.

ARTICLE XXV.

The Commissioners shall keep an accurate record and correct Minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a Secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each of the High Contracting Parties shall pay its own Commissioner and Agent or Counsel; all other expenses shall be defrayed by the two Governments in equal moieties.

ARTICLE XXVI.

The navigation of the River St. Lawrence, ascending and descending, from the forty-fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall for ever remain free and open for the purposes

of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain, or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the Rivers Yukon, Porcupine, and Stikine, ascending and descending from, to, and into the sea, shall for ever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

ARTICLE XXVII.

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States.

ARTICLE XXVIII.

The navigation of Lake Michigan shall also, for the term of years mentioned in Article XXXIII of this Treaty, be free and open for the purposes of commerce to the subjects of Her Britannic Majesty, subject to any laws and regulations of the United States or of the States bordering thereon not inconsistent with such privilege of free navigation.

ARTICLE XXIX.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, goods, wares, or merchandize arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been or may from time to time be specially designated by the President of the United States, and destined for Her Britannic Majesty's Possessions in North America, may be entered at the proper Customs-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Government of the United States may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandize may be conveyed in transit, without the payment of duties, from such possessions through the territory of the United States for export from the said ports of the United States.

It is further agreed that for the like period goods, wares, or merchandize arriving at any of the ports of Her Britannic Majesty's Possessions in North America and destined for the United States may be entered at the proper Custom-house and conveyed in transit, without the payment of duties, through the said Possessions, under such rules and regulations, and conditions for the protection of the revenue, as the Governments of the said Possessions may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares, or merchandize may be conveyed in transit, without payment of duties, from the United States through the said Possessions to other places in the United States, or for export from ports in the said Possessions.

ARTICLE XXX.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of

duty, goods, wares, or merchandize from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the the same, to another port or place within the territory of the United States as aforesaid : Provided, that a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States' vessels, without payment of duty, goods, wares, or merchandize from one port or place within the Possessions of Her Britannic Majesty in North America, to another port or place within the said Possessions : Provided, that a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandize carried under this Article through the territory of the United States ; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the Legislatures of the other Colonies not to impose any export duties on goods, wares, or merchandize carried under this Article ; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this Article in favour of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favour of the subjects of Her Britannic Majesty under this Article in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

Article XXXI.

The Government of Her Britannic Majesty further engages to urge upon the Parliament of the Dominion of Canada and the Legislature of New Brunswick, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick. And, in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this Treaty, it is agreed that the Government of the United States may suspend the right of carrying herein before granted under Article XXX of this Treaty for such period as such export or other duty may be levied.

Article XXXII.

It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this Treaty, inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect ; but the omission to make provision by law to give it effect, by either of the Legislative Bodies aforesaid, shall not in any way impair any other Articles of this Treaty.

Article XXXIII.

The foregoing Articles XVIII to XXV inclusive, and Article XXX of this Treaty shall take effect as soon as the laws required to carry them into operation shall have been

passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said Articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the High Contracting Parties shall have given notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

ARTICLE XXXIV.

Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Britannic Majesty and the United States, that the line of boundary between the territories of Her Britannic Majesty, and those of the United States, from the point on the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean;" and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that if should be run through the Canal de Haro, it is agreed that the respective claims of the Government of Her Britannic Majesty and of the Government of the United States shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.

ARTICLE XXXV.

The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated; it shall be in whatsoever form His Majesty may choose to adopt; it shall be delivered to the Representatives or other public Agents of Great Britain and of the United States respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ARTICLE XXXVI.

The written or printed case of each of the two Parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this Treaty, and a copy of such case and evidence shall be communicated by each Party to the other, through their respective Representatives at Berlin.

The High contracting Parties may include in the evidence to be considered by the Arbitrator, such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each Party to the other, each Party shall have the power of drawing up and laying before the Arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other Party so communicated, which definitive statement shall be so laid before the Arbitrator, and also be mutually communicated in the same manner as aforesaid, by each

party to the other, within six months from the date of laying the first statement of the case before the Arbitrator.

ARTICLE XXXVII.

If, in the case submitted to the Arbitrator, either Party shall specify or allude to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either party may call upon the other, through the Arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrator may require. And if the Arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either Party, and he shall be at liberty to hear one counsel or agent for each Party, in relation to any matter, and at such time, and in such manner, as he may think fit.

ARTICLE XXXVIII.

The Representatives, or other public Agents of Great Britain and of the United States at Berlin respectively, shall be considered as the Agents of their respective Governments to conduct their cases before the Arbitrator, who shall be requested to address all his communications, and give all his notices, to such Representatives or other public Agents, who shall represent their respective Governments generally in all matters connected with the Arbitration.

ARTICLE XXXIX.

It shall be competent to the Arbitrator to proceed in the said Arbitration, and all matters relating therto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both Agents, and either orally or by written discussion, or otherwise.

ARTICLE XL.

The Arbitrator may, if he think fit, appoint a Secretary or Clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all other expenses of and connected with the said arbitration, shall be provided for as hereinafter stipulated.

ARTICLE XLI.

The Arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to, in relation to this matter, which shall forthwith be repaid by the two Governments in equal moieties.

ARTICLE XLII.

The Arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said Agents.

ARTICLE XLIII.

The present Treaty shall be duly ratified by Her Britannic Majesty, and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged either at London or at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate at Washington, the eighth day of May, in the year of Our Lord one thousand eight hundred and seventy-one.

(L.S.) De Grey and Ripon.
(L.S.) Stafford H. Northcote.
(L.S.) Edwd. Thornton.
(L.S.) John A. Macdonald.
(L.S.) Mountague Bernard.
(L.S.) Hamilton Fish.
(L.S.) Robt. C. Schenck.
(L.S.) Samuel Nelson.
(L.S,) Ebenezer Rockwood Hoar.
(L.S.) Geo. H. Williams.

Mr. Hammond to the Under Secretary of State, Colonial Office.

(Copy.—No. 155.)

Foreign Office,
May 26th, 1871.

Sir,—I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a despatch from Sir E. Thornton, enclosing copies of his correspondence with Mr. Fish relative to the immediate application of the stipulations of the Fishery Treaty pending its ratification.

I am, &c.,
E. Hammond.

The Under Secretary of State,
Colonial Office.

Sir E. Thornton to Earl Granville.

(Copy.—No. 155.)

Washington, May 12th, 1871.

My Lord,—With reference to my despatches, Nos. 146 and 147, of the 8th instant, I have the honor to enclose copy of a note addressed to me by Mr. Fish, expressing the hope entertained by the Government of the United States that Her Majesty's Government will urge the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to consent that American fishermen should be allowed to fish in the waters of the above Colonies during the coming season.

Your Lordship will observe that at the beginning of the second paragraph of the draft of the note which I forwarded in my despatch, No. 146, the following words have been added: "The Government of the United States would be prepared at the same time "to admit British subjects to the right of fishing in the waters of the United States "specified in the Treaty"; but I also enclose copy of my answer to Mr. Fish, and hope your Lordship will find that his note, with the addition above mentioned and my answer, are in accordance with the terms your Lordship's telegram of 9th instant, transmitted through Earl de Grey.

His Lordship has seen both the enclosed notes and approves of their contents.

I have, &c.,
Edward Thornton.

The Earl Granville, K.C,G., &c., &c., &c.

Mr. Fish to Sir E. Thornton.

(Copy.)

DEPARTMENT OF STATE,
WASHINGTON, May 8th, 1871.

SIR,—As several articles of the Treaty which has been signed this day, relating to the admission of citizens of the United States to fish within the Territorial Waters of Her Britannic Majesty on the coasts of Canada, Prince Edward Island, and Newfoundland, cannot come into full operation until the legislation contemplated in that instrument shall have taken place, and as it seems to be in accordance with the interests of both Governments, in furtherance of the objects and spirit of the Treaty, that the citizens of the United States should have the enjoyment of that liberty during the present season, I am directed by the President to express to you his hope that Her Majesty's Government will be prepared, in the event of the ratification of the Treaty, to make on their own behalf, and to urge the Governments of the Dominion of Canada, of Prince Edward Island and of Newfoundland, to make for the season referred to within their respective jurisdictions such relaxations and regulations as it may respectively be in their power to adopt, with a view to the admission of American fishermen to the liberty which it is proposed to secure to them by the Treaty. The Government of the United States would be prepared at the same time to admit British subjects to the right of fishing in the waters of the United States specified in the Treaty; but as the admission into the United States, free of duty, of any articles which are by law subject to duty cannot be allowed without the sanction of Congress, the President will, in case the above suggestion meets with the views of the British Government, recommend and urge upon Congress, at their next Session, that any duties which may have been collected on and after the first day of July next, on fish-oil and fish (except fish of the inland Lakes and of the Rivers falling into the same, and except fish preserved in oil) the produce of the fisheries of the Dominion of Canada and of Prince Edward Island, shall be returned and refunded to parties paying the same, if a similar arrangement is made with respect to the admission into the British Possessions of fish-oil and fish (with the like exception) being the produce of the Fisheries of the United States.

I have, &c.,
HAMILTON FISH.

Sir E. Thornton, K.C.B., &c., &c., &c.

(Copy.)

Sir E. Thornton to Mr. Fish.

WASHINGTON,
May 9th, 1871.

SIR,—I have the honor to acknowledge the receipt of your note of yesterday's date, and to inform you in reply that I have been authorized by Earl Granville to state that in the event of the ratification of the Treaty signed yesterday, Her Majesty's Government will be prepared to recommend to the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, that the provisional arrangement proposed in your note above mentioned with regard to the right of fishing by United States citizens on the coasts of those British possessions, and by British subjects in the waters of the United States, described in Article XIX of the Treaty, shall take effect during the coming season, on the understanding that the ultimate decision of this question must rest with the above mentioned Colonial Governments, who would be asked to grant the immediate and certain right of fishing within the territorial waters of those colonies, whilst the return of the import duties on fish from the 1st of July next, promised by the United States, is prospective and contingent on the action of Congress.

I have, &c.,
EDWARD THORNTON.

The Honorable Hamilton Fish.

(Copy—Canada—No. 445.)

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET,
20th June, 1871.

MY LORD,—In accordance with the strong wish expressed by the Dominion Government, that a representation should be made to the United States with reference to the losses inflicted on Canada by the Fenian raids; Her Majesty's Government instructed the British High Commissioners to bring the claims arising out of those raids before the Joint High Commission.

Your Lordship will observe from the Protocols of Conferences, copies of which were transmitted to you in my despatch No. 444 of the 17th inst., that the American Commissioners declined to entertain the proposal made by the Commissioners to include these claims in the Treaty.

Her Majesty's Government were well aware of the serious difficulties in the way of settling this question, and they could not, therefore, feel surprised at this result. At the same time, it was with much regret that they acquiesced in the omission of these claims from the general settlement of outstanding questions between Great Britain and the United States.

But it seemed to them evident that the British Commissioners were right in thinking that there was no reasonable probability that by further pressing the point an agreement would be come to upon it with the American Commissioners, and when the choice lay between the settlement of all the other differences between the two countries on terms which Her Majesty's Government believed to be honorable to both, and beneficial alike to Canada and to the rest of the Empire, and the frustration of all hope of bringing the negotiations to a satisfactory issue, they could not hesitate as to the course which it was their duty to take.

I have, &c.,
(Signed) KIMBERLEY.

Governor General, The Right Honorable
Lord Lisgar, G.C.B., G.C.M.G.,
&c., &c., &c.

(Copy—No. 149.)

The Governor General to the Secretary of State for the Colonies.

CACOUNA,
August 15th, 1871.

MY LORD,—With reference to Your Lordship's despatch No. 444, of the 17th June, which I duly referred to the Privy Council of the Dominion; I have the honor to transmit herewith the report of a Committee of that body, containing their views on the subject of the Treaty of Washington, in so far as it affects the interests of Canada.

I have, &c.,
(Signed) LISGAR.

The Right Honorable,
The Earl of Kimberley,
&c., &c,, &c.

(No. 444.)

Copy of a Report of a Committee of the Privy Council, dated 28th July, 1871, submitted to His Excellency the Governor General.

The Committee of the Privy Council have had under their consideration the Earl of Kimberley's despatch to Your Excellency, dated the 17th June ult., transmitting copies of the Treaty signed at Washington on the 8th May last, by the Joint High Commissioners, and which has since been ratified by Her Majesty, and by the United States of America; of the instructions to Her Majesty's High Commissioners, and of the No. 445. protocols of the Conferences held by the Commission; and likewise the Earl of Kimberley's despatch of the 20th June ultimo, explaining the failure of Her Majesty's Government to obtain the consideration by the United States Commissioners of the claims of Canada for the losses sustained owing to the Fenian raids of 1866 and 1870. The Committee of the Privy Council have not failed to give their anxious consideration to the important subject discussed in the Earl of Kimberley's despatches, and they feel assured that they will consult the best interests of the Empire, by stating frankly for the information of Her Majesty's Government the result of their deliberations, which they believe to be in accordance with public opinion in all parts of the Dominion. The Committee of the Privy Council readily admit that Canada is deeply interested in the maintenance of cordial relations between the Republic of the United States and the British Empire, and they would therefore have been prepared without hesitation to recommend the Canadian Parliament to co-operate in procuring an amicable settlement of all differences likely to endanger the good understanding between the two Countries. For such an object they would not have hesitated to recommend the concession of some valuable rights, which they have always claimed to enjoy under the Treaty of 1818, and for which, as the Earl of Kimberley observes, Her Majesty's Government have always contended, both Governments having acted on the interpretation given to the Treaty in question by high legal authorities. The general dissatisfaction which the publication of the Treaty of Washington has produced in Canada, and which has been expressed with as much force in the Agricultural Districts of the West as in the Maritime Provinces, arises chiefly from two causes:—

1st. That the principal cause of difference between Canada and the United States has not been removed by the Treaty, but remains a subject for anxiety.

2nd. That a cession of territorial rights of great value has been made to the United States, not only without the previous assent of Canada, but contrary to the expressed wishes of the Canadian Government.

The Committee of the Privy Council will submit their views on both those points for the information of Her Majesty's Government, in the hope that by means of discussion, a more satisfactory understanding between the two Governments may be arrived at. The Earl of Kimberley has referred to the rules laid down in Article VI of the Treaty of Washington, as to the international duties of neutral Governments, as being of special importance to the Dominion, but the Committee of the Privy Council, judging from past experience, are much more apprehensive of misunderstanding, owing to the apparent difference of opinion between Canada and the United States, as to the relative duties of friendly States in a time of peace. It is unnecessary to enter into any lengthened discussion of the conduct of the United States during the last six or seven years, with reference to the organization of considerable numbers of the citizens of those states under the designation of Fenians. The views of the Canadian Government on this subject are in possession of Her Majesty's Government, and it appears from the protocol of conference between the High Commissioners, that the British Commissioners presented the claims of the people of Canada, and were instructed to state that they were regarded by Her Majesty's Government as coming within the class of subjects indicated by Sir Edward Thornton, in his letter of 26th January last, as subjects for the consideration of the Joint High Commissioners. The Earl of Kimberley states that it was with much

regret that Her Majesty's Government acquiesced in the omission of these claims from the general settlement of outstanding questions between Great Britain and the United States, and the Committee of the Privy Council, while fully participating in that regret, must add the fact that this Fenian organization is still in full vigour, and that there seems no reason to hope that the United States Government will perform its duty as a friendly neighbour any better in the future than in the past, leads them to entertain a just apprehension that the outstanding subject of difference with the United States is the one of all others which is of special importance to the Dominion. They must add that they are not aware that during the existence of this Fenian organization, which for nearly seven years has been a cause of irritation and expense to the people of Canada, Her Majesty's Government have made any vigorous effort to induce the Government of the United States to perform its duty to a neighbouring people who earnestly desire to live with them on terms of amity, and who during the civil war loyally performed all the duties of neutrals to the expressed satisfaction of the Government of the United States. On the contrary, while in the opinion of the Government, and the entire people of Canada, the Government of the United States neglected, until much too late, to take the necessary measures to prevent the Fenian invasion of 1870. Her Majesty's Government hastened to acknowledge by cable telegram, the prompt action of the President, and to thank him for it. The Committee of the Privy Council will only add on this painful subject that it is one on which the greatest unanimity exists among all classes of the people throughout the Dominion, and the failure of the High Commissioners to deal with it has been one cause of the prevailing dissatisfaction with the Treaty of Washington. The Committee of the Privy Council will proceed to the consideration of the other subject of dissatisfaction in Canada, viz., the cession to the citizens of the United States of the right to the use of the inshore fisheries, in common with the people of Canada. The Earl of Kimberley after observing that the Canadian Government took the initiative in suggesting that a joint British and American Commission should be appointed with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818, proceeds to state, that "the causes of the difficulty lay deeper than any question of interpretation, that the discussion of such points as the correct definition of bays could not "lead to a friendly agreement with the United States," and that "it was necessary therefore to endeavour to find an equivalent which the United States might be willing to "give in return for the fishery privileges." In the foregoing opinion of the Earl of Kimberley, the Committee of the Privy Council are unable to concur, and they cannot but regret that no opportunity was afforded them of communicating to Her Majesty's Government their views on a subject of so much importance to Canada prior to the meeting of the Joint High Commission.

When the Canadian Government took the initiative of suggesting the appointment of a Joint British and American Commission they never contemplated the surrender of their territorial rights, and they had no reason to suppose that Her Majesty's Government entertained the sentiments expressed by the Earl of Kimberley in his recent despatch. Had such sentiments been expressed to the delegate appointed by the Canadian Government to confer with His Lordship a few months before the appointment of the Commission it would at least have been in their power to have remonstrated against the cession of the inshore fisheries, and it would, moreover, have prevented any member of the Canadian Government from acting as a member of the Joint High Commission unless on the clear understanding that no such cession should be embodied in the treaty without their consent. The expediency of the cession of a common right to the inshore fisheries has been defended on the ground that such a sacrifice on the part of Canada should be made in the interests of peace.

The Committee of the Privy Council, as they have already observed, would have been prepared to recommend any necessary concession for so desirable an object, but they must remind the Earl of Kimberley that the original proposition of Sir Edward Thornton, as appears by his letter of 26th January, was, that "a friendly and complete understanding

should be come to between the two Governments, as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively, with reference to the fisheries on the coasts of Her Majesty's Possessions in North America." In his reply, dated 30th January last, Mr. Secretary Fish informs Sir Edward Thornton that the President instructs him to say that "he shares with Her Majesty's Government the appreciation of the importance of a friendly and complete understanding between the two Governments with reference to the subjects specially suggested for the consideration of the proposed Joint High Commission." In accordance with the explicit understanding, thus arrived at between the two Government, Earl Granville issued instructions to Her Majesty's High Commission, which, in the opinion of the Committe of the Privy Council, covered the whole ground of controversy. The United States had never pretended to claim a right on the part of their citizens to fish within three marine miles of the coasts and bays, according to their limited definition of the latter term, and although the right to enjoy the use of the inshore Fisheries might fairly have been made the subject of negotiation, with the view of ascertaining whether any proper equivalents could be found for such a concession, the United States was precluded by the original correspondence from insisting on it as a condition of the Treaty. The abandonment of the exclusive right to the inshore Fisheries without adequate compensation was not therefore necessary in order to come to a satisfactory understanding on the points really at issue. The Committee of the Privy Council forbear from entering into a controversial discussion as to the expediency of trying to influence the United States to adopt a more liberal commercial policy. They must, however, disclaim most emphatically the imputation of desiring to imperil the peace of the whole empire in order to force the American Government to change its commerical policy. They have for a considerable time back ceased to urge the United States to alter their commercial policy; but they are of opinion that when Canada is asked to surrender her inshore Fisheries to foreigners, she is fairly entitled to name the proper equivalent. The Committee of the Privy Council may observe that the opposition of the Government of the United States to reciprocal free trade in the products of the two countries, was just as strong for some years prior to 1854, as it has been since the termination of the Reciprocity Treaty, and that the Treaty of 1854 was obtained chiefly by the vigorous protection of the Fisheries which preceded it, and that but for the conciliatory policy on the subject of the Fisheries, which Her Majesty's Government induced Canada to adopt after the abrogation of the Treaty of 1854, by the United States, it is not improbable that there would have been no difficulty in obtaining its renewal. The Committee of the Privy Council have adverted to the policy of Her Majesty's Government because the Earl of Kimberley has stated that there is no difference in principle between a money payment and "the system of licenses calculated at so many dollars a ton, which was adopted by the Colonial Government for several years after the termination of the Reciprocity Treaty." Reference to the correspondence will prove that the license system was reluctlantly adopted by the Canadian Government, as a substitute for the still more objectionable policy pressed upon it by Her Majesty's Government, it having been clearly understood that the arrangement was of a temporary character. In his despatch of the 3rd March, 1866, Mr. Secretary Cardwell observed:—"Her Majesty's Government do not feel disinclined to allow the United States, for the season of 1866, the freedom of fishing granted to them in 1854, on the distinct understanding that unless some satisfactory arrangement between the two countries be made during the course of the year this privilege will cease, and all concessions made in the Treaty of 1854, will be liable to be withdrawn." The principle of a money payment for the concession of territorial rights has ever been most repugnant to the feelings of the Canadian people, and has only been entertained in deference to the wishes of the Imperial Government. What the Canadians were willing under the circumstances to accept as an equivalent, was the concession of certain commercial advantages, and it has therefore been most unsatisfactory to them that Her Majesty's Government should have consented to cede the use of the inshore Fisheries to foreigners, for considerations which are deemed wholly inadequate.

The Committee of the Privy Council need not enlarge further on the objectionable

features of the treaty, as it bears on Canadian interests. These are admitted by many, who think that Canada should make sacrifices for the general interests of the Empire. The people of Canada, on the other hand, seem unable to comprehend that there is any existing necessity for the cession of the right to use their inshore fisheries without adequate compensation. They have failed to discover that in the settlement of the so called Alabama Claims, which was the most important question in dispute between the two nations, England gained such advantages, as to be required to make further concessions at the expense of Canada, nor is there anything in the Earl of Kimberley's despatch to support such a view of the question. The other parts of the treaty are equally, if not more advantageous to the United States than to Canada, and the fishery question must consequently be considered on its own merits; and if so considered no reason has yet been advanced to induce Canada to cede her inshore fisheries for what Her Majesty's Government have admitted to be an inadequate consideration. Having thus stated their views on the two chief objections to the late Treaty of Washington, the Committee of the Privy Council will proceed to the consideration of the correspondence between Sir Edward Thornton, and Mr. Fish, transmitted in the Earl of Kimberley's despatch of the 17th June, and of His Lordship's remarks thereon. This subject has already been under the consideration of the Committee of the Privy Council, and a report dated the 7th June, embodying their views on the subject was transmitted to the Earl of Kimberley by your Excellency. In his despatch of the 26th June, acknowledging the receipt of that report, the Earl of Kimberley refers to his despatch of the 17th of that month, and "trusts that the Canadian Government will on mature consideration "accede to the proposal of the United States Government, on this subject." The committee of the Privy Council, in expressing their adherence to their report of the 7th June, must add, that inapplicability of the precedent of 1854, under which the action of the Canadian Parliament was anticipated by the Government, to the circumstances now existing, appears to them manifest. The treaty of 1854 was negotiated with the concurrence of the Provincial Governments represented at Washington, and met with the general approbation of the people, whereas the fishery clauses of the late treaty were adopted against the advice of the Canadian Government and have been generally disapproved of in all parts of the Dominion. There can hardly be a doubt that any action on the part of the Canadian Government in anticipation of the decision of Parliament would increase the discontent which now exists. The Committee of the Privy Council request that Your Excellency will communicate to the Earl of Kimberley the views which they entertain on the subject of the Treaty of Washington in so far as it affects the interests of the Dominion.

(Certified) WM. H. LEE,
Clerk Privy Council.

(Copy.—Canada—No. 561.)

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET, 23rd November, 1871.

MY LORD,—Her Majesty's Government have not failed to consider with attention the Report of the Committee of the Privy Council of the Dominion on the Treaty of Washington, which was enclosed in Your Lordship's despatch, No. 143, of August 15th. I need scarcely say that Her Majesty's Government regret that your Ministers should have found so much to object to in the provisions of the Treaty, but they remain themselves of opinion, for the reasons which were fully stated in my despatch of June 17 last, that, looked at as a whole, the Treaty is beneficial to the interests of the Dominion.

I shall endeavor, as far as possible, to avoid entering into further discussion of the clauses of the Treaty which apply especially to Canada, as I cannot think that any

advantage would result from a prolonged controversy between the two Governments as to the details of the Treaty, and the manner in which the negotiation was conducted. There are, however, two or three statements in the Report which it is necessary that I should not leave unnoticed.

The Committee seem to be under the impression that the right to participate in the Colonial Inshore Fisheries has been conceded to the United States without the previous consent of Canada. On this I have to observe that provision has been made for obtaining the assent of Canada in the manner which is strictly in accordance with constitutional usage, namely by stipulating that the fishery articles shall not come into force without the previous assent of the Dominion Parliament. If the Crown were to conclude a similar Treaty as regards the Fisheries of the United Kingdom, the assent of the Imperial Parliament would be reserved in no other manner.

I must also point out that the Committee are under an entire misapprehension in supposing that the cession of the Fishery rights is to be made for "what Her Majesty's "Government have admitted to be an inadequate consideration." If you will refer to my Despatch of June 17th, you will find that it was there stated that "the reciprocal concession of free fishing with free import of fish and fish-oil together with the payment of such a sum of money as may fairly represent the excess of value of the Colonial over the American concession seems to Her Majesty's Government to be an equitable solution of the difficulty."

Lastly, I must advert to the statement that "when the Canadian Government took the initiative in suggesting the appointment of a Joint British and American Commission, they never contemplated the surrender of their territorial rights, and they had no reason to suppose that Her Majesty's Government entertained the sentiments expressed by the Earl of Kimberley in his recent despatch. Had such sentiments been expressed to the delegate appointed by the Canadian Government to confer with His Lordship a few months before the appointment of the Commission, it would at least have been in their power to have remonstrated against the cession of the inshore fisheries, and it would moreover have prevented any member of the Canadian Government from acting as a member of the Joint High Commission, unless on the clear understanding that no such cession should be embodied in the Treaty without their consent."

It is true, no doubt, that in the conversation which I had with Mr. Campbell on the subject of the appointment of a joint British and American Commission, I did not allude to the possibility of such a Commission leading to an arrangement by which United States' fishermen should be admitted to participation in the Colonial inshore fisheries; but I could not then anticipate that an extended negotiation embracing all the questions at issue between Great Britain and the United States would arise out of the proposal to appoint a Commission upon the Fisheries; and when the Joint High Commission was appointed, it was distinctly intimated through Your Lordship to Sir John Macdonald, with reference to the Fisheries, before he accepted the office of Commissioner, that it was impossible for Her Majesty's Government to pledge themselves to a foregone conclusion on any particular point before entering into the negotiation.

I have, &c.,

(Signed,) KIMBERLEY.

Governor General
The Right Honorable
Lord Lisgar, G.C.B., &c., &c.

(Copy—No. 13.)

The Governor General to the Secretary of State for the Colonies.

OTTAWA, January 22, 1872.

MY LORD,—I have the honor to enclose for Your Lordship's consideration a Minute of the Privy Council of the Dominion, which conveys the reply of that body to Your Lordship's Despatch, No. 561, of the 23rd of November last, and urges the request for an Imperial guarantee to a Canadian loan, not to exceed four millions, *i.e.*, half the amount to be expended on the railway to the Pacific, and the enlargement of the St. Lawrence Canals.

20th January, 1872.

2. This proposal the Council recommend, as in their opinion, the best mode of adjusting all demands on the score of the Fenian claims, and of surmounting the difficulties in the way of obtaining the consent of the Canadian Parliament to the measures necessary to give effect to the Treaty of Washington.

I have, &c.,
(Signed) LISGAR.

The Right Honorable
The Earl of Kimberley.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 20th January, 1872.*

The Committee of the Privy Council have had under their consideration the Earl of Kimberley's Despatch to Your Excellency, dated the 23rd of November, 1871, on the subject of the Report of the Privy Council dated the 28th of July, and transmitted in Your Excellency's Despatch of the 15th of August. The object of that Report was to explain to Her Majesty's Government that much dissatisfaction prevailed in Canada owing to the absence of all provision in the Treaty of Washington for the settlement of the losses incurred by Canada, in consequence of the raids of citizens of the United States on British Territory, and also owing to the cession of the Canadian fisheries for an inadequate consideration. The Committee of Council were aware, from the Earl of Kimberley's Despatch of the 17th of June, 1871, that Her Majesty's Government were very desirous that the Acts necessary to give effect to the fishery clauses of the Treaty of Washington should be passed by the Canadian Parliament, and they had hoped that some proposition might be made by Her Maiesty's Government, in reply to their Report, that would enable them to propose such measures with a fair prospect of success.

In the Earl of Kimberley's Despatch to Your Excellency, dated 23rd of November, no reference whatever is made to the subject of the Fenian Raids, and with regard to the fishery clauses of the Treaty the only inference to be drawn from the despatch is that the objections raised by the Committee of Council are of very little weight.

The Committee of Council readily admit that further controversial discussion on the points on which differences of opinion unfortunately exist between the two Governments would be unprofitable. It is, however, due both to Her Majesty's Government and to themselves that they should frankly explain to the former the conclusion at which they have arrived on the two questions discussed in their Report of 28th of July last.

They maintain that Canada has a just claim to compensation for the expenses incurred in consequence of the Fenian Raids. It seems unnecesssary to support this opinion by further argument.

Although the Committee of Council deem it unnecessary to dwell on the objections which they entertain to the Fishery clauses in the Treaty, they desire to offer an explanation with reference to the Statement in their former Report, to which the Earl of Kimberley has taken exception, and which was to the effect that Her Majesty's Government had ceded the rights of Fishery for what they admitted to be an inadequate consideration.

In the course of the negotiations, the United States Commissioners had offered as an equivalent for the rights of Fishery, to admit Canadian Coal and Salt, free of duty, and Lumber after the 1st of July, 1874. This was deemed both by the Imperial and Canadian Governments an inadequate offer, and a counter proposition was made by the British Commissioners, that lumber should be admitted free immediately, and that in consideration of the continued exclusion of cereals, live stock and other articles, admitted under the Treaty of 1854, a sum of money should be paid to Canada. The United States Commissioners, not only refused the counter proposition, but withdrew their former offer substituting one which the Committee of Council infer, from the Earl of Kimberley's Despatch, was in the opinion of Her Majesty's Government, more favorable to Canada, that that which had been rejected as inadequate. Wide, however, as are the differences of opinion on this Continent regarding the Treaty, there is but one opinion on the point under consideration. It is clear that the United States preferred paying a sum of money to the concession of commercial advantages to Canada, and the Committee of Council feel assured that there is not a single member of the Canadian Parliament, who would not have much preferred the rejected proposition to that which was finally adopted.

The Committee of Council cannot, with the Earl of Kimberley's Despatch before them, continue to affirm that Her Majesty's Government are of opinion that the cession of the Fishery rights was made for an inadequate consideration, but they regret that they are themselves of a different opinion.

While still adhering to their expressed opinions as to the Fishery Articles of the Treaty of Washington, they are yet most anxious to meet the views of Her Majesty's Government and to be placed in a position to propose the necessary legislative measures, and they will therefore proceed to make a suggestion which they earnestly hope may receive a favorable response.

The adoption of the principle of a money payment in satisfaction of the expenses incurred by the Fenian raids, would not only be of no assistance with reference to the Treaty, but might lead to some complications. It is not improbable that differences of opinion would arise in the discussion of the details of those claims between the two Governments, which might lead to mutual dissatisfaction. Again, such a solution of the question, would necessitate a discussion in the Imperial Parliament, in the course of which opinions might be expressed by members, which might irritate the people of Canada and might moreover encourage the Fenian leaders in the United States, who have not ceased their agitation.

There is in the opinion of the Committee of Council a mode by which their hands might be so materially strengthened that they would be enabled not only to abandon all claims on account of the Fenian raids, but likewise to propose, with a fair prospect of success, the measures necessary to give effect to those clauses in the Treaty of Washington which require the concurrence of the Dominion Parliament. That mode is by an Imperial Guarantee to a portion of the loan which it will be necessary for Canada to raise in order to procure the construction of certain important public works, which will be highly beneficial to the United Kingdom as well as to Canada. It is not pretended that the construction of these works is contingent on an Imperial guarantee. The credit of Canada has never stood so high in the money market as at the present time, its 5 per cent. securities being at a premium. But there is no doubt that with the Imperial Guarantee, a considerable saving of interest could be effected.

The Committee of Council feel assured that Her Majesty's Government will recognize the scrupulous good faith which has invariably been observed by Canada under Governments of various shades of politics. Her Majesty's Government are aware that one of the conditions on which British Columbia joined the Confederation, was that Canada, should procure the construction of an Interoceanic Railroad. In order to procure the construction of this gigantic work, a cash subsidy will have to be granted to the Company undertaking it, to the extent in all probability of five millions sterling. This Railroad will open up for settlement the vast prairies of the North-West, which will sustain an enormous population. According to the most reliable statistics, the immigration from

the United Kingdom to Canada, is in about the proportion of one to six to that from the United Kindom to the United States, the population of the United States being more than ten times as great as that of Canada. On the other hand, the imports into Canada of staple articles of British manufacture, such as cottons, woollens, and iron and hardware, are about three times as large in proportion to population as those into the United States. It is therefore clearly the interest of the United Kindom that the British North West Territories should be opened for settlement as speedily as possible, and to effect this object, the Canadian Pacific Railroad is indispensably necessary. That Railroad, it may be added, would in all probability be found the most eligible mode of conveying a portion of Her Majesty's mails to the East.

The time has arrived when the enlargement and extension of the Canadian Canals, so earnestly desired by the United States, as appears by the protocols attached to the Treaty of Washington, can no longer be postponed.

The required works must be constructed by the Government, and will cost about three millions sterling, the aggregate for the Railroad and Canals being eight millions. The revenues of Canada are in a most satisfactory condition, and fully able to bear the increased charge which will be gradually thrown upon them. The taxes are much less than in the adjoining republic, and are cheerfully borne by the people.

The Committee of Council are of opinion that Her Majesty's Government might fairly be urged to propose to Parliament a guarantee for a Canadian loan, not to exceed four millions sterling, on the condition that such guaranteed loan should be raised at the same time, and in equal proportion with a Canadian unguaranteed loan for the same objects. The Committee of Council do not believe that any other mode can be suggested by which they would be enabled to surmount the difficulties in the way of their obtaining the consent of the Canadian Parliament to the measures necessary to give effect to the Treaty of Washington, than that which they have felt it their duty to recommend. The Committee of Council trust, that should other difficulties be removed, Her Majesty's Government will enable them to assure the Canadian Parliament, that any recommendation made by Canada to terminate the articles of the Treaty of Washington, numbered 18 to 25 inclusive, and likewise Article 30, in conformity with Article 33, would be acted on.

Certified,

WM. H. LEE,
Clerk Privy Council,
Canada.

The Secretary of State for the Colonies to the Governor General.

(Copy—Canada—No. 58.)

DOWNING STREET, 18th March, 1872.

MY LORD,—Her Majesty's Government have given their most careful attention to the report of the Committee of the Canadian Privy Council enclosed in your Lordship's despatch No. 13, of January 22.

The Committee state that, while adhering to their opinion as to the Fishery Articles of the Treaty of Washington, they are yet most anxious to meet the views of Her Majesty's Government, and to be placed in a position to propose the necessary legislative measures. They maintain that Canada has a just claim for compensation for expenses incurred in consequence of the Fenian raids, but they are of opinion that the adoption of the principle of a money payment in satisfaction of those expenses would be of no assistance with reference to the Treaty, and would be open to objection on other grounds. They therefore suggest another mode of settlement by which in their opinion their hands might be so materially strengthened that they would be enabled, not only to abandon all claims on account of Fenian raids, but likewise to propose to the Dominion Parliament, with a fair prospect of success, the measures necessary to give effect to the Treaty.

Their suggestion is, that Her Majesty's Government should propose to Parliament a guarantee for a Canadian Loan, not exceeding four millions sterling, being half the amount (£8,000,000) which it is intended to raise for the purpose of constructing the railroad through British territory to the Pacific, and of enlarging and extending the Canadian Canals.

Her Majesty's Government have considered this suggestion with an earnest desire to remove the difficulties which are felt by the Canadian Government, and I have now to convey to you the conclusions at which they have arrived.

They are of opinion that the most convenient course will be that it should be provided in the Acts to be passed by the Dominion Parliament to give effect to the Treaty that such acts should only come into force upon the issue of a Proclamation by the Governor General in Council bringing them into operation. On their part Her Majesty's Government will engage that when the Treaty shall have taken effect by the issue of such proclamation they will propose to Parliament to guarantee a Canadian Loan of £2,500,000, such loan to be applied to the purposes indicated by the Council, namely, the construction of the railroad through British Territory from Canada to the Pacific, and the improvement and enlargement of the Canadian Canals, and to be raised at the same time and in equal proportion with the Canadian unguaranteed loan for the same objects, on the understanding that Canada abandon all claims on this country on account of the Fenian raids.

As regards the request of the Privy Council that Her Majesty's Government will enable them to assure the Dominion Parliament that any recommendation made by Canada to terminate the articles of the Treaty numbered 18 to 25 inclusive, and likewise article 30 in conformity with article 33, would be acted on; I may observe that no such assurance was asked or given in the case of the Reciprocity Treaty, but Her Majesty's Government recognize that it is not unreasonable that Canada should desire some assurance on this point, and they have therefore no hesitation in declaring that the greatest deference would be paid to the expression of the wishes of the Dominion, signified by Addresses from both Houses of the Dominion Parliament, and that those wishes would certainly be attended to; subject, of course, to the necessary reservation of Her Majesty's discretion to take into consideration in the interest of the whole empire the state of her relations with foreign powers at the particular juncture.

I have already conveyed to your Lordship by telegraph the substance of this despatch.

I have, &c.,

(Signed,) KIMBERLEY.

Governor General,
The Rt.-Honble. LORD LISGAR,
G. C. B., G. C. M. G., &c., &c., &c.

(Copy—No. 95.)

CANADA.

GOVERNMENT HOUSE,

OTTAWA, April 15, 1872.

MY LORD,—With reference to Your Lordship's despatch, No. 58, of March 18th, 1872, I have now the honor to forward herewith a copy of a Minute of
15th April, 1872. the Privy Council of the Dominion, from which Your Lordship will perceive that the Ministers announce their intention of proposing to the Canadian Parliament the measures necessary to give effect to those clauses of the Treaty of Washington which relate to Canada.

I have, &c.,

(Signed,) LISGAR.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 15th day of April, 1872.

The Committee of the Privy Council have had under their consideration the Earl of Kimberley's despatch to Your Excellency, dated the 18th ult., communicating the views of Her Majesty's Imperial Government on the proposition submitted in the report of the Privy Council transmitted in Your Excellency's despatch of 22nd January last.

From the despatch it appears that Her Majesty's Government are of opinion, that the most convenient course will be that it should be provided in the Acts to be passed by the Dominion Parliament to give effect to the Treaty, that such Acts should only come into force upon the issue of a Proclamation by the Governor General in Council bringing them into operation; that on their part Her Majesty's Government will engage that when the Treaty shall have taken effect by the issue of such Proclamation, they will propose to Parliament to guarantee a Canadian loan of £2,500,000, such loan to be applied to the purposes indicated by the Council, namely, the construction of the railroad through British Territory from Canada to the Pacific, and the improvement and enlargement of the Canadian Canals, and to be raised at the same time and in equal proportions with the Canadian unguaranteed loan for the same objects, on the understanding that Canada abandon all claims on England on account of the Fenian Raids.

The Earl of Kimberley further observes, that Her Majesty's Government will enable the Canadian Government to assure the Dominion Parliament that any recommendation made by Canada to terminate the Articles of the Treaty numbered XVIII to XXV inclusive, and likewise Article XXX in conformity with Article XXXIII, will be acted on, that they have no hesitation in declaring that the greatest deference would be paid to the expression of the wishes of the Dominion signified by Addresses from both Houses of the Dominion Parliament, and that those wishes would certainly be attended to, subject, of course, to the necessary reservation of Her Majesty's discretion to take into consideration in the interests of the whole Empire, the state of her relations with foreign powers at the particular juncture.

The Committee of the Privy Council feel that although Her Majesty's Government have been unable to accede to their proposition in full, it is nevertheless their duty, in the interests both of Canada and the Empire at large, to accept the modified proposition of the Earl of Kimberley, and they will accordingly be prepared to propose to the Canadian Parliament, the measures necessary to give effect to those clauses of the Treaty relative to Canada.

Certified, WM. H. LEE.
Clerk, Privy Council, Canada.

MESSAGE.

The Governor General transmits for the information of the SENATE, and the HOUSE OF COMMONS, certain despatches and correspondence between the Governments of Nova Scotia, Newfoundland and Prince Edward Island and the Imperial Government, in reference to the Fishery Clauses of the Treaty of Washington.

LISGAR.

GOVERNMENT HOUSE,
OTTAWA, 29th April, 1872.

The Governor of Newfoundland to the Governor General.

(Copy—No. 28.)

GOVERNMENT HOUSE,
NEWFOUNDLAND, 20th March, 1871.

MY LORD,—I have the honor to transmit herewith to your Lordship the Copy of a correspondence which has recently taken place between Mr. Vail, Provincial Secretary, N.S., and Mr. Bennett, the Premier of my Government, relative to a Resolution which was passed on the 17th February last, in the House of Assembly N.S.

I have transmitted copies of the correspondence in question to the Secretary of State for the Colonies, and to the Lieut.-Governor of Nova Scotia.

I have, &c,
(Signed,) STEPHEN J. HILL.

His Excellency Governor General
The Right Hon. Lord Lisgar,
G.C.B., G.C.M.G., &c., &c., &c.

Correspondence between Mr. Vail, of Halifax, Province of Nova Scotia, and Mr. Bennett of Newfoundland.

(Copy.)

TELEGRAM FROM HALIFAX,
18th February, 1871.

"Passed resolution yesterday, thirty to three, protesting against transfer Fisheries "or sacrificing them to Imperial or Canadian interests, you better join."

(Signed,) W. B. VAIL.

To the Hon. C. F. Bennett.
19-8

Reply to foregoing.

(Copy.)

21st February, 1871.

"Cannot see at present the propriety or utility of protesting; will write by mail."

(Signed,) C. F. BENNETT.

To the Hon. W. B. Vail,
&c. &c. &c.

Mr. Bennett to Mr. Vail.

(Copy.)

SAINT JOHN'S,
2nd March, 1871.

SIR,—I sent you the other day a telegram in reply to yours of the 18th ult., to the effect that this Government could not then see the propriety or utility of joining in a protest upon the subject referred to in your telegram. We are ignorant of the whole circumstances which led to the action you took in the matter, and should we find them such as call forth our sympathies on behalf of the course you deemed proper to take, the question would still arise with us, as to the propriety or utility of our joining you in that protest.

It is the desire of this Government to avoid any collision with the Imperial wishes that do not necessarily demand our interference. We view England as our actual Protector—She has always acted not only justly but generously towards us—We have no apprehension that she will, in any way, prejudice those rights and privileges which she so liberally granted to the people of this Colony under their valued Constitutional Charter. She has left us to exercise our own discretion and free-will to enter the Confederation of the North American Provinces under the Dominion or not. And we have every confidence that she will protect us in the enjoyment of those rights and privileges which are so essential to our prosperity and happiness.

I remain, &c.,
(Signed,) C. F. BENNETT.

The Secretary of State for the Colonies to the Governor General.

(Copy—Canada—No. 503.)

DOWNING STREET,
3rd September, 1871.

MY LORD,—I have the honor to transmit to your Lordship for your information, copies of Despatches, dated the 14th and 25th of July, which I have received from the Governor of Newfoundland, and the Lieutenant-Governor of Prince Edward Island, apprizing me that their Governments have acceded to the wishes of Her Majesty's Government that United States Fishermen should be admitted during the present season to the provisional use of the privileges granted to them by the Treaty of Washington, so far as concerns those Islands, together with copies of the answers which I have returned to those despatches.

Newfoundland—No. 55—14 July, 1871.
P. E. Island—No. 59—25 July, 1871.

I have, &c.,
(Signed,) KIMBERLEY.

Governor The Right Honorable
The Lord Lisgar, G.C.B., &c., &c., &c.

Governor Hill to the Earl of Kimberley.

(Copy—No. 55.)

GOVERNMENT HOUSE,
NEWFOUNDLAND, 14th July, 1871.

MY LORD,—1. I have the honor to acknowledge the receipt of your Lordship's Despatch No. 28, of the 17th June, enclosing copies of the Treaty, signed at Washington, on the 8th May, by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States,—of the Instructions to Her Majesty's High Commissioners and Protocols of the Conferences held by the Commission,—of two notes which have passed between Sir E. Thornton and Mr. Fish,—and of a Despatch of 17th June, which your Lordship has addressed to the Governor General of Canada, stating the views of Her Majesty's Government on these important documents.

2. I observe in the copy now before me, of the Despatch of Mr. Secretary Fish, (8th May, 1871,) to Sir E. Thornton, an omission which bears very materially upon the peculiar interests of this Colony, respecting the immediate acquiescence of the Government of Newfoundland, in the opinions of Her Majesty's Government, as regards the prompt admission of American Fishermen to the provisional use, so far as this Island is concerned, of the privileges granted to them by the Treaty.

3. Respecting the immediate admission of American Fishermen into British Waters, Mr. Fish writes, "As several articles of the Treaty which has been signed this day, "relating to the admission of citizens of the United States to fish within the territorial "waters of Her Britannic Majesty, on the coast of Canada, Prince Edward's Island, and "Newfoundland, cannot come into full operation until the Legislation contemplated in "that instrument shall have taken place, &c., &c., &c., &c.," and again in writing of the restoration to British subjects of certain duties by Congress, Mr. Fish observes "that any duties which may have been collected on and after the first day of July next, "on fish-oil and fish, (except fish of the inland lakes and of the rivers falling into the "same, and except fish preserved in oil) the produce of the Fisheries of the Dominion "of Canada, and of Prince Edward's Island, shall be returned and refunded to the "parties paying the same, if a similar arrangement is made with respect to the admission "into the British possessions of fish-oil and fish (with the like exception) being the pro-"duce of the Fisheries of the United States," the word *Newfoundland*, included in the first extract of Mr. Fish's Despatch is excluded from the latter, and if intentional, the omission in question may act detrimentally towards the future acceptance of the terms of the Treaty by the Colonial Legislature.

4. My Ministers, however, to whom I have communicated the whole of the important documents respecting the Washington Treaty, are willing to consider this omission as unintentional, and although anxious to obtain information on this point, have resolved to comply at once with the wishes of Her Majesty's Government as regards the admission, during the present season, of citizens of the United States to the povisional use of the privileges granted to them by the Treaty, so far as lies in the jurisdiction of the Government of Newfoundland to bestow.

5. There is another point in reference to the correspondence relative to the Treaty to which my Advisers invite your Lordship's attention. The copy of Sir E. Thornton's reply (9th May, 1871,) to Mr. Fish, contains, in connection with the re-payment of Import Duties by Congress, the following words, "the above mentioned Colonial Gov-"ernments, who would be asked to grant the immediate and certain right of fishing "within the territorial waters of those Colonies whilst the return of the Import Duties "on fish from the 1st July next, promised by the United States, is prospective and "contingent on the action of Congress," the words, "on fish oil" following the words, "that any duties which may have been collected on and after the first day of July next," in Mr. Fish's note to Sir E. Thornton, are in the reply thereto (from which the

6. I beg to transmit to your Lordship, copy of a Minute of Council, signifying assent on the part of the Government of Newfoundland, to the request contained in your Lordship's Despatch, No. 28, of 17th June, respecting the Treaty of Washington.

7th July, 1871.

I have, &c.,
(Signed,) STEPHEN J. HILL.

The Right Honorable
The Earl of Kimberley, &c., &c., &c.

Copy of Minute of Council.

(Copy.)

In compliance with the request made by Earl Kimberley in his Despatch of 17th June to His Excellency the Governor, it is agreed to accede thereto.

True copy
(Signed,) STEPHEN J. HILL.

Council Room,
7th July, 1871.

The Earl of Kimberley to Governor Hill.

(Copy—Newfoundland—No. 38.)

DOWNING STREET,
3rd September, 1871.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 55, of the 14th of July, communicating to me the consent of your Government to the provisional admission of United States Fishermen during the present season to the privileges granted by the Treaty of Washington so far as concerns the Colony under your Government.

Her Majesty's Government have learnt with much satisfaction that the Newfoundland Government have so willingly acceded to their wishes in this respect.

I have drawn Lord Granville's attention to the two questions raised in your Despatch on the correspondence which passed on this subject between Sir Edward Thornton and Mr. Fish.

I have &c.,
(Signed,) KIMBERLY.

Governor Hill, C.B., &c., &c., &c.

Lieut. Governor Robinson to Lord Kimberley.

(Copy—Prince Edward Island—No. 59.)

GOVERNMENT HOUSE,
July 25th, 1871.

MY LORD,—In continuation of my Despatch No. 55, of the 12th instant, I have now the honor to forward a Minute prepared by my Advisers in which they record the result of their deliberations on the subject of the Treaty of Washington and the other important documents which were forwarded to me with your Lordship's Despatch No. 22, of the 17th June, last.

2. It is stated in the Minute that "the different Governments and Legislatures of

"or of some Tariff concessions authorizing the free admission (into the United States) of "the products of our Agriculturists who form the majority of our population, and which would have resulted in promoting the prosperity of the Colony,"—and that in the opinion of the Council the Inhabitants of Prince Edward Island are now asked to "surrender "to the Citizens of the United States these invaluable Fisheries without receiving in "return any just or fair equivalent such as was hoped to be obtained.

In deference, however, to the strongly expressed wish of Her Majesty's Government in the matter, the Committee of the Executive Council (without giving any pledge as to "the ultimate action of the Legislature), recommend that the application made by the "United States Government be acceded to, so that American Fishermen may be at once "allowed during the present season the provisional use of the privileges granted to them "by the Treaty;"—and I have the honor to report that the Custom House Officers were yesterday instructed to discontinue the enforcement of the Fishery Laws for the present season, and until further orders.

3. I caused the United States Consul at this Port to be notified accordingly, and I simultaneously dispatched a similar notice to Sir Edward Thornton by telegraph.

4. I may add that in the event of the Acts necessary to give effect to the Treaty being passed by the Legislature of Prince Edward Island, my Government will apply to your Lordship for permission to send a representative to Halifax, for the purpose of conferring with the Agents of the Imperial Government, whose appointment is provided for in the concluding paragraph of Article 23 of the Treaty, and of urging upon him the claims of this Island to a just share, proportionate to the value of our Fisheries, of whatever compensation may be awarded as an equivalent for the privileges which the Colonists are asked to surrender. My Government are of course aware that Great Britain and the United States are to be represented before the Halifax Commission, each by one agent only, but they believe that it would be competent to Her Majesty's Government to authorize the Imperial agent as aforesaid to receive information on the subject of our Fisheries from a representative to be appointed by the Government of Prince Edward Island, and this, should the Legislature assent to the Treaty, is what my Government hope that your Lordship will be pleased to accord.

5. I am confident that your Lordship will receive with much satisfaction the intimation contained in this despatch and that the prompt and loyal action of the Government of Prince Edward Island will predispose Her Majesty's Government to comply as far as possible with any reasonable request which my Advisers may consider it to be their duty to prefer.

I have &c.,
(Signed,) WILLIAM ROBINSON,
Lieut. Governor.

The Right Honorable,
The Earl of Kimberley, &c., &c., &c.

COUNCIL CHAMBER,
July 17th, 1871.

At a meeting of a committee of the Executive Council of Prince Edward Island,

PRESENT;
The Honorable Mr. Pope,
" Mr. Colonial Secretary,
" Mr. Attorney General,
" Mr. Owen,
" Mr. Richards.

Her Majesty's Principal Secretary of State, for the Colonies to His Honor Lieutenant Governor Robinson, together with copies of the Treaty signed at Washington, on the 8th day of May, and of Protocols of Conferences held by the Commission, of two notes which have passed between Sir Edward Thornton and Mr. Secretary Fish, and of a despatch addressed to the Governor General of Canada, stating the views of Her Majesty's Government on these important documents. Her Majesty's Government in the despatch first referred to, strongly urge upon the Government of this Island that, for reasons stated in the despatch from Earl Kimberley to Lord Lisgar, the same course should be pursued as in 1854, and the application made by the United States Government acceded to by Prince Edward Island, so that American Fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty.

I have respectfully to submit that Prince Edward Island is the most fertile and productive Province in British North America, in proportion to its extent—that the natural market for its principal productions is to be found in the United States, as was very satisfactorily proved during the continuation of the Reciprocity Treaty of 1854—that the fisheries of this Island are the best and most valuable in America, and are much appreciated by the fishermen of the United States—that the different Governments and Legislatures of this Colony have always hoped that these fisheries would have done much to secure the advantages of another Reciprocity Treaty, or of some Tarriff Concessions authorizing the free admission of the products of our Agriculturists, who form the majority of our population, and which would have resulted in promoting the prosperity of the Colony—that by the Treaty now under consideration, the inhabitants of this Island are asked to surrender to the citizens of the United States, these invaluable fisheries, without receiving in return any just or fair equivalent, such as was hoped to be obtained—Earl Kimberley, in his despatch to Lord Lisgar, alludes to the great importance to Canada of the right to convey goods in bond through the United States, which has been secured to her by Article 29, and the free navigation of Lake Michigan, under Article 28, and the power of transhipping goods under Article 30, as valuable privileges which must not be "overlooked in framing an estimate of the advantages which Canada will obtain."

Valuable to Canada as may be these privileges, the Committee submit that they do not at all affect Prince Edward Island—that the chief benefit to this Island would be the admission of fish and fish oil into the Markets of the United States, and this would not be generally felt by the people inasmuch as this trade is now principally in the hands of a few American Citizens—that the surrender by the United States of the right of fishing down to the 39th degree of latitude is comparatively worthless to the people of this Island, and as the United States Government assert that the privileges accorded to the citizens of the United States under Article 18, of this Treaty, are of no greater value than those accorded by Articles 19, and 21, to the subjects of Her Britannic Majesty, the amount of any money compensation that would be given to this Island would be insignificant.

Earl Kimberley in his despatch to Lord Lisgar, says, "In some respects a direct "money payment is perhaps a more distinct recognition of the rights of the Colonies than "a Tariff Concession, and there does not seem to be any difference in principle between "the admission of American fishermen, for a term of years, in consideration of the pay-"ment of a sum of money in gross, and their admission under the system of licenses cal-"culated at so many dollars per ton, which was adopted by the Colonial Government for "several years after the termination of the Reciprocity Treaty. In the latter case it "must be observed, the use of the fisheries was granted without any tariff concession "whatever on the part of the United States, even as to the importation of fish."

The Committee submit that a Commercial arrangement with the United States, in consideration of the use of the fisheries, would have been most acceptable, but as the Royal High Commissioners were unable to induce the American Government to change its Commercial policy the people of this Island being extremely loyal, and devotedly attached to British Institutions, would be most unwilling to throw any obstacle in the way of an amicable settlement of all causes of difference between Great Britain and the United

States, and would therefore willingly accept any reasonable money compensation in addition to the privileges granted as an equivalent, but under the Treaty nothing of the kind is guaranteed them.

The Committee deem it to be their duty further to state that the system referred to of granting licences to American fishermen, for a money consideration, was never approved of by the Government of this Island, but merely sanctioned in deference to the strongly expressed wish of the British Government in the matter, and for the same reason the Committee now recommend that the application made by the United States Government be acceded to, so that American fishermen may be at once allowed during the present season the provisional use of the privileges granted to them by the Treaty, without any pledge, however, on the part of the Government, that the Legislature will pass the Acts to give effect to the Treaty, in which they feel that the interests of Prince Edward Island have not been fairly considered.

Adopted in Council,
July, 24th, 1871.

Certified.
(Signed,) WILLIAM C. DES BRISAY,
Assistant Clerk Ex. Council.

The Earl of Kimberley to Lieutenant Governor Robinson.

(Copy—Prince Edward Island—No. 32.)

DOWNING STREET,
3rd September, 1871.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 59, of the 25th of July, communicating to me the consent of your Government to the provisional admission of United States Fishermen during the present season to the privileges granted by the Treaty of Washington so far as concerns the Colony under your Government.

Her Majesty's Government have learnt with much satisfaction that the Prince Edward Island Government have so willingly acceded to their wishes in this respect.

With regard to the observations contained in the Minutes of Council, which you have forwarded, to the effect that the Prince Edward Island Government would readily accept any reasonable money compensation in addition to the privileges granted as an equivalent, but that under the Treaty nothing of the kind is guaranteed, I do not understand why the Prince Edward Island Government should object to the reference of the question of the money compensation to arbitration which seems to be the fairest way of determining such a point, more especially as the fact stated in the Minute that the rights of fishing conceded by the United States are comparatively worthless, is, it must be presumed, capable of distinct proof.

I will communicate with Lord Granville as to the wish of your Government, in the event of the Act necessary to give effect to the Treaty being passed, to appoint a Representative to give information to the Commission which is to meet at Halifax.

I have &c.,
(Signed,) KIMBERLEY.

Lieutenant Governor Robinson, &c., &c., &c.

The Secretary of State for the Colonies to the Governor General.

(Copy—Canada—No. 504.)

DOWNING STREET,
5th September, 1871.

MY LORD,—With reference to my Despatch of the 3rd inst., forwarding copies of a correspondence between the Governor of Newfoundland and the Lieutenant-Governor of

Prince Edward Island, and myself, relating to the Treaty of Washington and to the Fisheries, I have the honor to transmit to you, for your information, a
31 August, 1871. copy of a letter from the Foreign Office, on certain points raised in that correspondence.

I have communicated a copy of the Foreign Office letter to the Governor of Newfoundland and to the Lieutenant-Governor of Prince Edward Island.

I have, &c.,
(Signed,) KIMBERLEY.

Governor General The Right Honorable
Lord Lisgar, G.C.B., &c., &c., &c.

Mr. Russell to the Under Secretary of State, Colonial Office.

(Copy.)

FOREIGN OFFICE,
August, 31st, 1871.

SIR,—I have laid before Earl Granville, your letter of the 21st instant, enclosing copies of correspondence with the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward's Island, respecting the provisional admission of American fishermen to the inshore fisheries of those Islands, and I am, in reply, to request that you will state to the Earl of Kimberley that Lord Granville has no doubt that the Government of Newfoundland is right in assuming that the omission of the mention of Newfoundland in the passage in Mr. Fish's note to Sir E. Thornton, referred to, was unintentional.

Her Majesty's Chargé d'Affaires at Washington will, however, be instructed to call Mr. Fish's attention to the omission as being understood to be by inadvertence.

His Lordship wishes the Government of Newfoundland to be informed that the intention of the two notes was that pending reciprocal legislation, in return for the immediate provisional admission of American Fishermen to the inshore Fisheries, drawbacks should be granted on the Import Duties taken in the United States on the fish oil and fish which are to be hereafter admitted free for a term of years under the 21st Article of the Treaty.

I am to add that as regards the desire expressed by the Government of Prince Edward Island that some person should be appointed to attend the Commission at Halifax, it appears to Lord Granville that it would not only be permissible but highly desirable that Prince Edward Island and the other Provinces should furnish the fullest information before the Commission as to the value of the inshore Fisheries on their Coasts. The 24th Article of the Treaty provides that the Commissioners shall be bound to receive such oral or written testimony as either Government may present, and it will consequently be competent for the Government of Prince Edward Island to send to Halifax any person who may be selected as best capable of giving evidence on its behalf.

I am &c.,
(Signed,) ODO RUSSELL.

The Under Secretary of State,
Colonial Office, &c., &c., &c.

The Secretary of State for the Colonies to the Governor General.

(Copy—Canada—No. 585.)

DOWNING STREET,
30th November, 1871,

MY LORD,—With reference to my Despatch, No. 444, of the 17th June, 1871, I have the honor to transmit to you, for your information, and for that of your Government, copies of a correspondence between the Lieutenant-Governor of Prince Edward Island and myself, on the question of the refund of duties collected in the United States, on fish and fish oil, the produce of the Fisheries of Prince Edward Island and Newfoundland.

Lt.-Gov. P. E. I.—No. 72—Sep. 30 '71. S. of S. to Lt.-Gov.

I have, &c.,
(Signed,) KIMBERLEY.

Governor General The Right Honorable
Lord Lisgar, G.C.B.

Lieutenant-Governor Robinson to the Earl of Kimberley.

(Copy—Prince Edward Island—No. 72.)

GOVERNMENT HOUSE,
30th September, 1871.

MY LORD,—I have the honor to submit a copy of a letter addressed to me by Mr. I. C. Hall, an American merchant, largely engaged in the exportation of fish from Prince Edward Island to the United States, together with a copy of my reply thereto.

2. Mr. Hall is apprehensive that the refusal of Canada to assent to the provisional arrangement proposed by the United States and assented to by this Colony, as reported in my despatch No. 59, of the 25th July, may work adversely to the interests of those persons in Prince Edward Island, who have this year made large investments in the fishing business, in the expectation of receiving back the duties collected in the United States, on fish oil and fish exported from this Island into that country, during the present fishing season.

3. I do not in the least apprehend that the action of Canada withholding assent from an arrangement in respect of which it was necessary that each Colony concerned should decide for itself, will in any way prejudice the interests of Prince Edward Island, or that the Government of the United States will be hereby deterred from recommending and urging upon Congress to refund the duties collected during the stipulated period on fish oil and fish from this Colony, and I felt justified in informing Mr. Hall, that I considered his apprehensions unfounded.

4. An assurance to this effect from your Lordship, if one could be procured in time from the United States Government, and your Lordship should think proper to ask for it, would be most satisfactory and re-assuring to that section of the mercantile community to which Mr. Hall belongs, and would serve to counteract the depressing influence which the apprehension now entertained may otherwise have on the late autumn trade of the Colony.

S. of S. to Lt.-Gov.—No. 22, of June 17, 1871. Lt.-Gov. to S. of S.—No. 59, of July 25, 1871.

5. For previous correspondence on the subject of the provisional arrangement mentioned in this communication, I beg to refer your Lordship to the Despatches of the number and dates noted in the margin.

I have, &c.,
(Signed,) WILLIAM ROBINSON.
Lieutenant-Governor.

The Right Honorable
The Earl of Kimberley.

Mr. I. C. Hall to Lieutenant-Governor Robinson.

(Copy.)

CHARLOTTETOWN, P. E. I.,
26th September, 1871.

SIR,—After the action of your Government giving effect to the Treaty of Washington, so far as the fisheries are concerned, admitting fish from the United States, as bait or otherwise, free of duty into this Colony, and giving to United States fishing vessels free access to the shore fisheries around this Island, those persons here who are engaged in the fishing business had supposed that their right, on the meeting of Congress, to receive back the duties paid on all fish and fish oils exported by them to the United States since the 1st day of July, could not be questioned.

Recent reports from the United States would, however, lead to the belief that the refusal of the Dominion of Canada, to give effect to the Treaty of Washington, may work adversely to the interests of this Island, and prejudice her claim to such return of duties.

As your Honor is probably aware, large investments have this year been made in the fishing business, based on the expectation of receiving the benefit of this Treaty, and a heavy loss to this Island must result if the duties are not returned.

I would therefore esteem it as a great favor if your Honor can give me any information bearing upon this subject.

I have, &c.,
(Signed,) I. C. HALL.

His Honor Wm. C. F. Robinson, Esq.,
Lieutenant-Governor, &c., &c., &c.

Mr. Robinson to Mr. Hall.

(Copy—No. 102.)

GOVERNMENT HOUSE,
29th September, 1871.

SIR,—I am directed by the Lieutenant Governor to acknowledge the receipt of your letter of the 26th instant, on the subject of the Treaty of Washington.

2. The Government of the United States requested Her Majesty's Government to urge the Government of Canada, Newfoundland, and Prince Edward Island, to make for the present season within their present jurisdiction, such relaxations and regulations as it might be in their power to adopt, with a view to the provisional admission of American Fishermen the liberty which is proposed to be secured to them by the Treaty of Washington; the Government of the United States undertaking in return to recommend and urge upon Congress, at their next Session, to refund to the parties paying the same, any duties collected in the United States on and after the 1st July, on fish oil and fish (with certain exceptions) the produce of the fisheries of the above Colonies respectively, if a similar arrangement should be made with respect to the admission into the above Colonies as aforesaid, of fish oil and fish (with like exceptions) being the produce of the fisheries of the United States.

3. Prince Edward Island assented to the proposed arrangement, Canada did not assent to it, and you are apprehensive that such refusal on the part of Canada may work adversely to the interests of those persons in Prince Edward Island who have this year made large investments in the Fishing business in the expectation of receiving back the duties paid by them on fish oil and fish exported from this Island into the United States during the present fishing season.

4. The Lieutenant Governor is of opinion that your apprehensions are unfounded,—an arrangement sanctioned by Her Majesty's Government has been entered into between

the Governments of the United States and Prince Edward Island, and the Lieutenant Governor does not apprehend that the action of Canada in withholding her assent from a similar arrangement will be attended with the prejudicial result which you have recently been led to anticipate.

I have &c.,
(Signed,) KILDARE C. ROBINSON.
Private Secretary.

Isaac C. Hall, Esq., &c., &c., &c.

Lord Kimberley to Lieut. Governor Robinson.

(Copy—No. 48.)

DOWNING STREET,
30th December, 1871.

SIR,—I have been in communication with the Secretary of State for Foreign Affairs on the subject of your Despatch, No. 72, of the 30th September, in which you enclosed copies of correspondence between yourself and Mr. I. C. Hall, respecting the question of the refund of the duties collected in the United States on fish oil and fish exported from Prince Edward Island during the Fishing season.

Enquiry has been made of the United States Government on the subject of the introduction of a Bill into Congress to provide for the refunding of duties paid upon fish and fish oil, the produce of the Fisheries of Prince Edward Island and Newfoundland, but Her Majesty's Government regrets that the United States Government have replied that the proposal made in May last contemplated the united action of all the British North American Colonies, and that it would not be practicable to separate them or carry into effect for one what the President was willing to recommend for all those Colonies.

I have &c.,
(Signed,) KIMBERLEY.

Gaylord Bros.
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Syracuse, N. Y.
PAT. JAN. 21, 1908

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